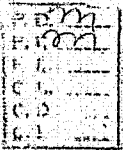


COMPARED

# DEED OF TRUST.

541



THIS DEED, Made and entered into this 23<sup>rd</sup> day of January, 1907, by and between H. W. Harley, Samuel H. A. Smith and Lulu M. Smith his wife of Berkshire party of the first part, and C. H. Lynde of Muskogee party of the second part, and Lynde-Bowman-Darby Company, a corporation organized and existing under and by virtue of the laws of the United States in force in the Indian Territory, party of the third part;

Witnesseth: That the said first party, in consideration of the debt and trust hereinafter mentioned and created, and the sum of one dollar, to him in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, does by these presents grant, bargain, sell and convey unto the said second party the following described tract, piece, or parcel of land lying and being situated in Indian Territory, to-wit:

North half (1/2) of the south-east quarter and south-east quarter of the south-east of section twelve (12) and the west half (1/2) of the north-west quarter of section twelve (12), all in township thirteen (13) North, range fourteen (14) East.

To have and hold the same, together with all the rights, privileges and appurtenances thereto belonging, unto the said second party and unto his successors and assigns in this trust; and the said first party hereby covenants with the said second party that he is lawfully seized in fee of the said real estate; and that the same is free from all incumbrances, and that he will warrant and defend the same unto the said second party, or his successors in said trust, or assigns, against the lawful claims of all persons.

And I, Lulu M. Smith, wife of said S. A. Smith for and in consideration of said sum of money, do hereby release and relinquish unto the said second party all my right of dower and homestead in and to said lands. To hold the same in trust, however, for the uses and purposes hereinafter expressed.

This sale is on condition that: Whereas said H. W. Harley, S. A. Smith and Lulu M. Smith did on the 23<sup>rd</sup> day of January, 1907, borrow of Lynde-Bowman-Darby Company the sum of Twenty-five hundred DOLLARS, for which they executed and delivered to said Company coupon note for Twenty-five hundred Dollars, dated at Muskogee Indian Territory, on the 23<sup>rd</sup> day of January, 1907, and made payable to the order of said Company, or its assigns, at its office in Muskogee, Indian Territory, on the 1<sup>st</sup> day of February, 1907, with interest at the rate of six per cent. per annum, from date until maturity and eight per cent. per annum from maturity until paid, payable annually on the 1<sup>st</sup> day of February and eight of each year; the interest until the maturity of said note being evidenced and secured by five interest coupons to said note annexed, for and paid for U.S.A. Co. Dollars each, all bearing even date with said note, and made payable at the same place to said Lynde-Bowman-Darby Company, or bearer, on the 1<sup>st</sup> day of February of each year respectively, so that one of the interest coupons on said note falls due at the end of every twelve months from the 1<sup>st</sup> day of February, 1907, and bear interest after maturity, at the rate of eight per cent. per annum.

And, Whereas, For the further security of this loan, said party of the first part covenants and agrees with said party of the second part to keep the improvements on the said property in a state of good repair, and constantly insured for the benefit of said party of the third part and its assigns, in one or more insurance companies, satisfactory to said party of the third part, against fire in at least the sum of one thousand Dollars, and against wind-storms, tornadoes, and cyclones, in at least the sum of one thousand Dollars, to pay off and discharge all prior liens, taxes and incumbrances (if any there be) on said property, to pay all general taxes and special assessments upon the property within the time required by law; to constantly keep the same free from mechanics' liens and all other liens, and to preserve and maintain the security hereunder against any adverse superior or intervening claim or interest. Should the party of the first part default in the performance of any of these stipulations, the said third party, or its assigns, may immediately perform and discharge the same, and all amounts so expended in paying such taxes, liens or incumbrances, or in protecting said title, or in making said repairs, shall become a debt due, in addition to the indebtedness aforesaid, and secured in like manner by this deed, and

It is Further Agreed, That any failure to pay when due, the aforesaid note and coupons, whether for interest or principal, or any default in either of said covenants as to taxes, liens, incumbrances, insurance or protecting said title, as aforesaid, or any default to refund on demand any moneys which have been paid by the party of the third part, or its assigns, on account of repairs, taxes, liens, incumbrances, insurance or in protecting said title, as above provided, shall, at the option of the holder of said note, cause the note and obligations hereby secured to become forthwith due and payable, whether due upon their face or not, and sale hereunder may be made as hereinafter provided.

Now, If said coupon note shall be promptly paid, at maturity and if the covenants aforesaid shall be well and truly kept and all amounts expended as aforesaid shall be refunded and repaid to the said party of the third part, or its assigns by the said party of the first part, his personal representatives or assigns, then, these presents shall be void and the property herebefore conveyed shall be released at the cost of the party of the first part: but if default be made in the payment of said coupon note, or any part thereof, or either of said coupons, or the interest thereon, as they respectively become due and payable; or in case said covenants or any part thereof shall not be fully kept, then this deed shall remain in full force, and

(a) Thereupon this deed of trust may be foreclosed at once for the whole of said money, as above mentioned, accrued interest and costs, and (b) Said third party, or any legal holder of the note herein secured shall at once be entitled to the immediate possession of the above described premises, and may at once take possession of the same, and receive and collect the rents, uses and profits thereof, and the occupant or occupants of said real estate shall pay the rent to the third party or its assigns only, and (c) The said second party may proceed to sell the property herein described or any part thereof at public vendue to the highest bidder for cash, at Muskogee in Western District after having given public notice for twenty days of the time, terms and place of sale, and of the property to be sold, by advertisement in some newspaper, published in Western District, at which sale either of the said parties, or their assigns, may bid and purchase, and upon such sale, shall execute and deliver a deed, or deeds, in fee simple, conveying the property sold, to the purchaser or purchasers thereof (all the recitals whereof shall be prima facie evidence of the facts therein set forth) and receive the proceeds of said sale out of which shall be paid: First, the cost and expenses of executing this trust, and attorney's fees; second, all moneys, with interest, which have been advanced, or expended by said party of the third part, or its assigns, for either taxes, repairs, liens, insurance, or protecting said title; third, said note and coupons, or such of them as shall then be due, whether due on their face, or by agreement herein, all the past due interest to be fully paid prior to any part of the principal; and fourth, the remainder, if any, shall be paid to said party of the first part, his personal representatives or assigns.

We hereby waive any and all rights of appraisal or redemption, the note herein secured being given for borrowed money.

It Is Further Stipulated and Agreed, That if, at any time, the trustee to whom this conveyance is made, shall fail, refuse or be incapacitated from sickness, absence, death or any other cause, from carrying out the object of this trust, then the said Lynde-Bowman-Darby Company, or its assigns, shall have the right to appoint a trustee in his place by endorsement of such appointment on this deed, which substituted trustee shall have the same powers in every respect as are conceded to the grantee in this deed; and the endorsement aforesaid shall be prima facie evidence of the fact that a necessity has arisen for the appointment of such substituted trustee, under the provisions of this deed.

Witness our hands and seals on this 23<sup>rd</sup> day of January, 1907

H. W. Harley (Seal)  
S. A. Smith (Seal)  
Lulu M. Smith (Seal)

UNITED STATES OF AMERICA, }  
Indian Territory } ss.  
Western Judicial District.

Be it remembered, that on this day came before me, the undersigned, a notary public within and for the above mentioned Judicial District and Territory, duly commissioned and acting, S. A. Smith to me well known as the grantor in the foregoing deed, and stated that he had executed the same for the consideration and the purposes therein mentioned and set forth.

(On the same day also) voluntarily appeared before me the said Lulu M. Smith wife of the said S. A. Smith to me well known, and in the absence of her said husband, declared that she had of her own free will, executed the foregoing deed and signed and sealed the relinquishment of her dower and homestead in the said deeds for the consideration and purposes therein contained and set forth, without compulsion or undue influence of her said husband.

Witness my hand and seal as such notary public on this 23<sup>rd</sup> day of January, 1907.  
SEAL Notary Public March 13, 1910  
Filed for record Feb. 13 1907 at 1<sup>15</sup> o'clock P.M.  
Otto Lorton Deputy Clerk and Ex-Officio Recorder

Notary Public Seal for J. H. Rogers, Notary Public, State of Kansas, Commission Expires March 13, 1910.  
I, J. H. Rogers, Notary Public, do hereby certify that the foregoing deed was duly executed and sealed by the parties thereto in my presence, and that the same is a true and correct copy of the original as the same appears from the records of the County of Sevier, State of Kansas, and that the same is a true and correct copy of the original as the same appears from the records of the County of Sevier, State of Kansas, and that the same is a true and correct copy of the original as the same appears from the records of the County of Sevier, State of Kansas.