

37904

Form 4-REAL ESTATE MORTGAGE

DORSETT Printing Company, Dallas, Texas-15316

THIS MORTGAGE, Made this 30th day of January, A. D. 1912, by and between

Ben Burgess and Lydia Burgess, his wife, of Pulaski County, State of Oklahoma, of the first part, and Edna M. Evans of Owasa County, in the State of Oklahoma, of the second part.

WITNESSETH, That the said part 1st of the first part, in consideration of the sum of Six Hundred and no/100 Dollars, cash in hand paid by the said party of the second part, to the said part 1st of the first part, the receipt of which is hereby acknowledged, the said part 1st of the first part has granted, bargained, sold and conveyed, and do hereby grant, bargain, sell and convey unto the said party of the second part 2nd heirs, legal representatives, successors and assigns, the following described real estate and premises situated in Pulaski County, and State of Oklahoma, to-wit:

The Northwest quarter of the Southwest quarter (NW 1/4 of SW 1/4) of Section Six (6), Township Eighteen (18) North Range Fourteen (14), East, (otherwise described as Lot Six (6), said Sec. 14 and Range) of the Indian Base and Meridian, according to the U. S. Survey thereof

containing 37.18 acres, more or less, according to Government survey thereof.

TO HAVE AND TO HOLD THE SAME unto the said party of the second part 2nd heirs, legal representatives, successors and assigns forever, together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in any wise appertaining, and all rights of homestead exemption.

And the said part 1st of the first part, for them selves and their heirs, successors, executors, administrators and assigns, covenant with the said party of the second part, that at the date and delivery hereof they are lawfully seized and possessed of an absolute and indefeasible estate of inheritance in fee simple in and to said real estate and premises; that the same is free and clear of all incumbrances whatsoever, and that they have a good right to sell and convey the same to the said party of the second part, and that they will and their heirs, executors, administrators, and successors shall forever warrant and defend the title to and possession of said real estate unto the said party of the second part 2nd heirs, legal representatives, successors and assigns, against all lawful claims and demands whatsoever.

And the said Lydia Burgess, wife of the said Ben Burgess for said consideration, does hereby release, relinquish, quit claim, transfer and convey unto the said party of the second part 2nd heirs, legal representatives, successors, and assigns all her right, claim or possibility of dower and homestead, or any rights therein, now or hereafter received, in and to said real estate, forever.

The foregoing conveyance is on condition that:

WHEREAS, The said part 1st of the first part are justly indebted to the said party of the second part in the sum of Six Hundred and Fifty and no/100 Dollars, for actual money loaned to said first part 1st by second party as is evidenced by one certain principal promissory note, executed by first part 1st to second party, of even date herewith for \$650.00 Dollars, due January 30, 1917

drawing interest at the rate of 10 per centum per annum from date, until due, and 10 per centum interest after due; said interest payable semi-annually and evidenced until maturity of said principal note by ten interest coupon notes attached thereto, and forming a part thereof, said interest coupons being in amounts and payable as follows: Nov. 1, 1912, \$48.75, and \$32.00 every six months thereafter until Jan 30, 1917 which is \$16.25

Now if the said part 1st of the first part shall pay or cause to be paid, said principal and interest notes according to the tenor and effect thereof, and at the time and place therein provided, and do and perform all and every other covenant and agreement in this mortgage provided, then this instrument shall be null and void (and shall be released at the expense of first party), otherwise to remain in full force and effect.

IT IS FURTHER AGREED By the first part 1st hereto that during the continuance in force of this instrument, or any part thereof, they shall pay all taxes and assessments, levied against said premises, when due, and they will neither commit or permit any waste upon said premises, or the removal of any buildings or other improvements therefrom.

The said part 1st of the first part agree to procure and maintain policies of fire and tornado insurance (in "stock" not "mutual" Company or Companies) on the buildings now or hereafter erected on the premises hereby conveyed in such Company or Companies as second party may elect in the sum of \$1000.00, fire, and tornado, with premiums fully paid for the entire term of the policies, which policy or policies shall be duly assigned and delivered to second party, assigns, or legal representatives as collateral and additional security for the payment of the indebtedness hereby secured, and the obligations of this mortgage. Said insurance, as above provided, to be maintained in the amounts named above as long as this mortgage, or any part of the same, is in force.

And it is further stipulated that in case the taxes or assessments of any kind levied against said premises are not paid when due, or if there is a failure to maintain insurance in this mortgage provided, then the second party, 2nd heirs, assigns or legal representatives may pay such taxes or assessments, or effect such insurance, and the amounts so expended therefor shall bear interest from the date of such expenditure at 10 per cent per annum, and this mortgage is security for the money so expended with interest as provided.

IT IS FURTHER AGREED By the part 1st of the first part, binding his heirs, legal representatives, successors, assigns, grantees and lessees, that during the life of this mortgage, or any part thereof, there shall be no stripping of any part of the premises herein mortgaged to obtain coal, stone or other minerals or substances, nor shall any mining of any kind or nature be permitted thereon. However, the foregoing provision shall not apply to any oil or gas lease now on said premises that now appears of record either at the office of the U. S. Indian Agency at Muskogee or in the County where the said premises are located or in the proper recording District of the Indian Territory before Statehood became effective for Oklahoma, but all incomes, profits, royalties or other monies or thing of value due or to become due from said oil and gas lease or leases, as well as any other right, title or interest of mortgagors therein, are hereby assigned to the mortgagee herein, his assigns, successors, or legal representatives as a further and additional security for the full performance of the obligations named in this mortgage.

IT IS FURTHER AGREED That in case the party of the second part 2nd legal representatives, successors or assigns shall hereafter appear in any of the Land Departments of the General Government, or before the Commissioner to the Five Civilized Tribes at Muskogee, Okla., or before any United States Indian Agency, or in any Court or Tribunal whatever in order to preserve or protect the title to or possession of said premises, or to remove any cloud or clouds from the title thereof that all such costs and expenses occasioned thereby shall bear interest at eight per cent from the date of expenditure and this mortgage shall stand as security for the same.

And in the case of the foreclosure of this mortgage, and as often as any proceedings shall be had or taken to foreclose the same, the holder hereof may recover from the first part 1st an attorney's fee of 100 dollars, which sum shall be due upon the filing of petition in foreclosure and this mortgage shall stand as security for such attorney's fee.

IT IS FURTHER AGREED And understood, that upon a breach of the warranty herein, or upon a failure or refusal to pay the principal indebtedness hereby secured when due, or any part thereof, or any interest thereon when due, or any tax or assessment herein mentioned, or on a failure to maintain insurance as herein provided, or to permit mining or stripping for coal or other substance on said premises contrary to the provisions of this mortgage, or a failure to deliver the said incomes, rents, royalties or other monies or thing of value arising from any oil and gas lease as above provided, or to comply with any of the agreements or provisions of this mortgage; then, in either event, that the whole sum hereby secured shall at once and without notice become due and payable, at the option of the holder hereof, and shall bear interest thereafter at the rate of eight per cent per annum, and the said party of the second part, his heirs, successors, legal representatives or assigns shall be entitled to a foreclosure of this mortgage and to have the said premises sold and the proceeds thereof applied to the payment of the indebtedness hereby secured, and that immediately upon the filing of the petition in foreclosure the holder hereof shall be entitled to the possession of said premises, and to each and every part thereof, and to collect and apply the rents therefrom, less the reasonable expenditures, to the payment of the indebtedness secured under this mortgage, and for this purpose the holder hereof shall be entitled to a receiver, to the appointment of which the mortgagors hereby consent, which appointment may be made either before or after the decree of foreclosure, and the holder hereof shall in no case be held to account for any damages, nor for any rental, or other monies other than those actually received. The appraisalment of said premises is hereby expressly waived. All covenants and agreements herein contained shall run with the premises hereby conveyed; and this mortgage and the evidences of indebtedness hereby secured shall in all respects be governed and construed by the laws of Oklahoma, and first part 1st hereby expressly waive all benefits of the homestead and stay laws of Oklahoma.

IN WITNESS WHEREOF, The said part 1st of the first part has hereunto set their hand 30th day and year first above written.

Witnesses to mark, execution and delivery.

Ben Burgess
Lydia Burgess

State of Oklahoma, Pulaski County, ss.

BEFORE ME, Maudie D. Difers, a Notary Public in and for said County and State, on this 30th day of January, 1912, personally appeared Ben Burgess and Lydia Burgess, his wife, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

My commission expires March 29, 1915 (deaf) Maudie D. Difers Notary Public.

State of Oklahoma, Pulaski County, ss.

This Instrument was filed for Record on the 30 day of Jan, A.D. 1912, at 11:15 o'clock a. M.

By (deaf) Deputy H. C. Walkley Register of Deeds.

10.00 and 10% of the principal and interest unpaid, which sum shall be due upon filing of petition in foreclosure and this mortgage shall stand as security for such attorney's fee.