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APPROVAL, ABSTRACT OF TITLE TO LAND OF ELIZABETH T. HUGGINS, IN THE CITY OF KENT, PORTAGE COUNTY, FOR KENT STATE NORMAL SCHOOL.

COLUMBUS, OHIO, December 6, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of an abstract of title covering certain lands and premises, the purchase of which is contemplated in connection with the Kent State Normal School, which said lands and premises are described in the caption of said abstract as follows:

“Situated in the city of Kent, County of Portage, and State of Ohio, and known as being a part of Franklin Township, Lot Number Twenty-three (23), bounded by commencing at a point at the south line of an eighty foot road running through said lot, which point is 14 chains and 32 links east of the west line of said township lot, and is at the N. E. corner of lands now owned by the State of Ohio, being the Kent State Normal Grounds, running thence south parallel with the said west line of said lot, 19.83 chains to the south line of said township lot; thence east along such south line 8 chains to the S. W. corner of land formerly owned by Selah Clapp, now owned by C. H. and Bessie A. Curtiss; thence north along the west line of said Curtiss' tract about 20 chains to the south line of said Eighty (80) foot road; and thence west eight (8) chains to the place of beginning, containing sixteen (16) acres of land, be the same more or less.”

An examination of said abstract of title shows that the above described lands and premises stand in the name of Elizabeth T. Huggins as the owner of record of the same. Said Elizabeth T. Huggins obtained title to said property by devise under the last will and testament of her husband George M. Huggins, who died March 9, 1928. It appears that the sixteen acres of land, more or less, here in question, came to said George M. Huggins as three separate tracts of land, to-wit, a two acre tract, which came to him by deed of conveyance from one William Gridley and wife, May 12, 1865; a ten acre tract, which came to him by deed of conveyance by one Sylvester Huggins and wife, January 15, 1867, and a four acre tract, which came to him by deed of conveyance from one Catherine Hophour, April 8, 1875.

There are some minor defects in the early history of the several tracts making up the acreage here in question, which on account of their insignificant nature and the lapse of time need not here be specifically mentioned. However, there are two defects in the chain of title affecting the land here in question that should be noted.

On December 2, 1862, the four acre tract of land above referred to included within the sixteen acre tract here in question, was conveyed by warranty deed by one Norman Stratton and wife to Joseph Hophour. On April 8, 1875, Catherine Hophour, the widow of Joseph Hophour conveyed said four acre tract by warranty deed to said George M. Huggins.

The abstracter states that he is informed that children were born to said Joseph Hophour and Catherine Hophour, and inasmuch as it does not appear that said Joseph Hophour left any last will and testament, the abstract of title is defective in not showing what became of the interest of the children of Joseph Hophour in said four acre tract of land upon his decease.

Aside from the fact that the children of said Joseph Hophour, and those claiming under them, may be barred from asserting any rights in said four acre tract of land by reason of the open, continuous and adverse possession of said land by Elizabeth T. Huggins and her predecessors in title, the rights, if any, of the heirs of said Joseph Hophour can be foreclosed and barred by a proceeding to quiet title filed by Elizabeth T. Huggins, the present record owner of said lands.

On July 22, 1846, one Uriah French, being then the owner in fee simple of a tract of twelve acres, more or less, composed of the two acre tract and the ten acre tract above referred to, conveyed therefrom to one Rebecca C. Hinson, a tract of 5.50 acres. The abstract shows that thereafter on March 24, 1849, said tract of 5.50 acres of land was conveyed back to Uriah French by one Francis Haynes and wife, and following this conveyance said tract of twelve acres of land passed as tracts of two acres and ten acres respectively by mesne conveyances to said George M. Huggins. However, there is nothing in the abstract to show how the title to said tract of 5.50 acres of land above referred to passed from Rebecca C. Hinson to Francis Haynes and wife or to either of them. Again aside from the effect of the open, continuous and adverse possession of this land by Elizabeth Huggins and her predecessors in title for many years, this defect in the title to the lands here in question can be effectually cured by an action to quiet title against said Rebecca C. Hinson and her heirs and devisees, known and unknown.

The abstract shows that all taxes on said lands past due and payable have been fully paid.

Inasmuch as the abstract is certified by the abstracter under date of September 12, 1928, I infer that the only taxes which are a lien on said lands are the taxes for the year 1928.

The certificate of the abstracter to said abstract states that the sixteen acre tract of land here in question is now in the possession of one R. E. Kingsley under a lease which contains an option on the part of the lessee to purchase said lands. It does not appear what the term and other conditions of said lease are; but inasmuch as said R. E. Kingsley is in actual possession of said lands, the State of Ohio, as the proposed purchaser of said lands, through you as the responsible officer in the transaction, is charged with knowledge of the right of said R. E. Kingsley, under said lease, whatever they may prove to be.

The actions to quiet the title to the lands here in question, suggested by reason of the defects in the history of the title to the same above mentioned, will necessarily have the effect of delaying the actual purchase of this land and the payment therefor by the state until after December 31st, 1928, when the appropriation made for the purchase of this land lapses. However, it appears that on September 1, 1928, the State of Ohio, through you as Director of the Department of Public Works and said Elizabeth T. Huggins, entered into a contract for the purchase of this land by the state for the agreed sum of \$14,500.00, subject to the approval of the abstract of title by the Attorney General. This contract, in my opinion, constitutes a contingent liability which following precedents in former appropriation acts, will be met by a re-appropriation by the incoming Legislature of the unexpended balance against which said liability has been incurred.

I am herewith returning to you the abstract of title submitted.

Respectfully,
EDWARD C. TURNER,
Attorney General.