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12-16-74

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IN THE CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

Map 128-14
Par 66
MO

BERNITA ANN BIRMINGHAM)

VS.) NO. 74760

SCOTT POWELL BIRMINGHAM)

FINAL DECREE

This cause came on to be heard on this 12th day of December, 1974, before the Honorable William Rutherford, Judge of the First Circuit Court of Davidson County, Tennessee, upon the cross-complaint filed in this cause, statement of cross-complainant and his corroborating witnesses in open Court, statement of counsel, and the entire record; from all of which the Court finds that the cross-defendant, Bernita Ann Birmingham, has been guilty of such cruel and inhuman treatment as renders further cohabitation improper, and, further, that the cross-defendant, Bernita Ann Birmingham, has been guilty of adultery. The Court further finds that the property settlement agreement entered into between the parties is fair and equitable. The Court further finds that the cross-defendant should be restored her maiden name of Bernita Ann Morgan.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the cross-complainant, Scott Powell Birmingham, be and hereby is granted an absolute divorce from the cross-defendant and restored all the rights and privileges of an unmarried person.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the property settlement agreement be and hereby is approved, said agreement being in words and figures as follows:

A G R E E M E N T

THIS AGREEMENT made and entered into this _____ day of November, 1974, by and between SCOTT POWELL BIRMINGHAM, hereinafter referred to as "Husband," and BERNITA ANN BIRMINGHAM, hereinafter referred to as "Wife," both of Nashville, Davidson County, Tennessee.

W I T N E S S E T H:

WHEREAS, the parties hereto are man and wife, having been married on August 20, 1971, in Jackson, Madison County, Tennessee; and

WHEREAS, the parties have been, and are now, living separate and apart, and have no expectation of resuming marital relations; and

WHEREAS, certain irreconcilable differences have arisen between the parties and Wife has filed a Complaint in the Circuit Court of Davidson County, Tennessee, seeking a divorce from Husband; and

WHEREAS, the parties desire to enter into an agreement with respect to their property rights and for the other purposes and with the effect hereinafter stated;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the parties herein contained, the parties agree and covenant as follows:

1. Personal Property. Husband agrees to transfer and assign to Wife, the following items of household furnishings and appliances presently located at 8041 Esterbrook Drive:

(a) Wife's personal clothing.

(b) A certain rocking chair and coffee table which were Christmas gifts to Wife.

(c) An end table purchased by Wife.

(d) A round dining room table and four chairs purchased by Wife.

(e) One single bed, a cedar chest and a library table, all of which were gifts to Wife from her mother.

(f) An exercise bicycle.

Wife agrees to transfer and convey to Husband, all other household furniture, furnishings and equipment presently located in the residence of the parties at 8041 Esterbrook Drive, Nashville, Tennessee. Further, Wife agrees to return to Husband his 1965 MBA classring with the initials "SPB" engraved thereon.

2. Real Property. Wife agrees to convey all of her right, title and interest in the residence of the parties located at 8041 Esterbrook Drive, Nashville, Tennessee, to Husband. Said property is described as follows:

> "LAND in the 9th Civil District of Davidson County, Tennessee, being Lot No. 82 on the Map of Harpeth Park, Section 2, as of record in Book 3700, page 58, Register's Office for said County.
>
> "SAID Lot No. 82 fronts 87 feet on the southerly side of Esterbrook Drive and extends back 201.85 feet on the westerly line and 189.07 feet on the easterly line to a line in the rear measuring 102.76 feet thereon.
>
> "BEING the same property conveyed to Scott P. Birmingham, et ux, by deed from Clyde W. Kestner, et ux, of record in Book 4632, page 981, Register's Office for Davidson County, Tennessee."

3. Stock. Wife agrees to execute any and all documents necessary to transfer two hundred twenty-five (225) shares of stock in Hospital Corporation of America to Husband, out of the five hundred fifty (550) shares presently held in her name.

4. Additional Instruments. Each of the parties shall, from time to time, at the request of the other, execute acknowledge and deliver to the other party any and all further instruments that may be reasonably required to give full force and effect to the provisions of this Agreement.

5. Waiver of Rights. Other than herein provided, each of the parties waives any and all rights which he or she may have in and to the property or estate of the other.

This Agreement is not intended, nor shall it be construed to be an agreement for divorce, and either party shall have the right to appear in Court and contest any divorce proceedings.

It is understood and agreed that this agreement is intended to be a final settlement of the property rights of the respective parties and is a full discharge of Husband from all other obligations to support Wife and a discharge from all other claims arising out of their marital relations and that each hereby waives and relinquishes to the other all rights or claims which each may have or hereafter acquire under the law of any jurisdiction in the other's property, including without limitation, by way of dower, curtesy, statutory allowance, homestead rights, right to take against the will of the other, inheritance, dissent or distribution, alimony and support, right to act as the administrator or executor of the other's estate, and this agreement applies to all property now owned by Scott Powell Birmingham and Bernita Ann Birmingham, or any property that either of them may acquire in the future.

Bernita Ann Birmingham acknowledges that the provisions in this agreement are fair, adequate and satisfactory to her and accepts them in full and final settlement of all claims and demands for alimony and fully discharges the said Scott Powell Birmingham from all such claims and demands except as provided in this agreement.

It is further understood and agreed by and between the parties that this property settlement is entered into without any undue influence, fraud, coercion, or misrepresentation or for any reason not herein stated. The provisions in this agreement

and their legal effect have been fully explained to each of the parties and each party acknowledges that the agreement is fair and equitable and that it is being entered into voluntarily.

It is agreed that this Property Settlement Agreement may be incorporated into any decree for divorce granted either party hereto.

IN WITNESS WHEREOF, the said parties have read this instrument and familiarized themselves with its contents and signed and executed this instrument on this _____ day of _____, 1974.

SCOTT POWELL BIRMINGHAM

BERNITA ANN BIRMINGHAM

STATE OF TENNESSEE)

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COUNTY OF DAVIDSON)

Personally appeared before me, Virginia A. Simmons, a Notary Public in and for said County and State, the within named SCOTT POWELL BIRMINGHAM, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand this 5th day of November 1974.

Virginia A. Simmons
NOTARY PUBLIC

My Commission Expires:

11/12/75

* * * * *

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Personally appeared before me, _____ a Notary Public in and for said County and State, the within named BERNITA ANN BIRMINGHAM, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand this _____ day of _____, 1974.

_____
NOTARY PUBLIC

My Commission Expires:

_____

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the cross-defendant be and hereby is restored her maiden name of Bernita Ann Morgan.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that cross-defendant be divested of all her right, title and interest in the following described property and the same vested in the cross-complainant:

> "LAND in the 9th Civil District of Davidson County, Tennessee, being Lot No. 82 on the Map of Harpeth Park, Section 2, as of record in Book 3700, page 58, Register's Office for said County.
>
> "SAID Lot No. 82 fronts 87 feet on the southerly side of Esterbrook Drive and extends back 201.85 feet on the westerly line and 189.07 feet on the easterly line to a line in the rear measuring 102.76 feet thereon.
>
> "BEING the same property conveyed to Scott P. Birmingham, et ux, by deed from Clyde W. Kestner, et ux, of record in Book 4632, page 981, Register's Office for Davidson County, Tennessee."

The costs of this cause will be taxed against the cross-defendant for which execution may issue, if necessary.

JUDGE 12-16-74

APPROVED FOR ENTRY:

WILLIS, KNIGHT & BARR

By _____
Attorney for Cross-complainant,
Scott Powell Birmingham

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DEC 30 MISC A* 16.00 * 16.00

C 8 2 8 5 5

IDENTIF. REFERENCE

DEC 30 3 40 PM '74

FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TENN.

Mail Willis, Knight & Bass, Atty
100 Main St
Nash. Tenn

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STATE OF TENNESSEE

I, GEORGE L. ROOKER, *Clerk of the Circuit Court for the County of Davidson, in the State aforesaid, do certify that the foregoing is a* true copy *of the record and proceedings had in said Court in the case heretofore prosecuted and determined therein, between* Bernita Ann Birmingham *Plaintiff, and* Scott Powell Birmingham *Defendant, as same remain of record in said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* 23rd *day of* December *in the year one thousand nine hundred and* seventy-four *and in the* 199th *year of American Independence.*

GEORGE L. ROOKER, *Clerk.*

By Sue Wooden, D. C.