

ROAD

DOCKET No. 6

Number

12

Term

Sept. SS

Year

1938

Petition of Guy Knepp and Ada Cole

Knepp of Boggs Township for appointment
of Viewers to assess damages
Versus

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: :
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES ON PETITION : No. 12, September Sessions, 1938
OF GUY KNEPP AND ADA COLE
KNEPP :

PETITION FOR RULE TO SHOW CAUSE WHY MORTGAGEE SHOULD NOT
INTERVENE

To the Honorable W. Wallace Smith, President Judge of said Court.

J. C. Gatehouse, T. R. Weimer and W. V. Carr, County Commissioners of Clearfield County, respectfully represent:

1. On the 12th day of December, 1938, your Honorable Court appointed A. B. Shaw, Esq., Harry Reese and H. A. Giles as viewers to view the premises of Guy Knepp and Adah Mae Cole Knepp, located in Boggs Township, Clearfield County, Pa., to assess such damages as may have been suffered by them as the result of the change of location and construction of State Highway Route 57, section 4, where said highway crosses through the premises of Guy Knepp and Adah Mae Cole Knepp which were conveyed to them by deed of John F. Cole, dated November 27, 1936, recorded at Clearfield, Pa., in deed book No. 316, page 231.

2. Said premises are subject to the lien of a certain mortgage from Guy Knepp and Adah Mae Cole Knepp, his wife, mortgagors, to John F. Cole, mortgagee, dated December 1, 1936, recorded at Clearfield, Pa., in mortgage book 106, page 315, to secure a debt of \$950.00.

3. Judgment was entered in the Court of Common Pleas of Clearfield County, pursuant to the power of attorney contained in the bond which accompanied the mortgage identified in the next preceding paragraph hereof, said judgment having been entered to No. 35, May Term, 1937.

4. By instrument dated March 31, 1938, for a consideration recited in said instrument to be \$983.25, the said John F. Cole assigned the mortgage above identified to Roy Cole of West Decatur, Pa., said assignment being recorded at Clearfield, Pa., in

mortgage book 109, page 231.

5. Said County Commissioners are advised, believe and therefore aver that the amount of the obligation secured by said mortgage exceeds the damages, if any, arising from the relocation of State Highway Route 57, section 4, where said highway passes through the mortgaged premises.

6. The County Commissioners are advised, believe and therefore aver that the said mortgagee has the right to demand that the damages arising from such relocation and construction be applied on account of his mortgage, that the right of said mortgagee is superior to that of the said Guy Knepp and Adah Mae Cole Knepp, the mortgagors, and that the said Roy Cole is the real party in interest in the said viewers' proceedings.

7. The County Commissioners are advised, believe and therefore aver that said viewers' proceedings involve but one cause of action; and that the right of the mortgagors, the right of the mortgagee and the liability of Clearfield County should be determined in the same proceeding.

WHEREFORE the County Commissioners pray your Honorable Court to grant a rule upon the said Guy Knepp, Adah Mae Cole Knepp and Roy Cole to show cause why the said Roy Cole should not be required to intervene in this proceeding to the end that the rights of the said Roy Cole as mortgagee as well as the rights of Guy Knepp and Adah Mae Cole Knepp, and the liabilities of Clearfield County in respect of said premises, may be adjudicated therein.


County Solicitor

STATE OF PENNSYLVANIA :
: SS:
COUNTY OF CLEARFIELD :

J. C. Gatehouse, T. R. Weimer, and W. V. Carr, being duly sworn according to law, depose and say that the facts stated in the foregoing petition are true and correct from their own knowledge and where stated upon information and belief, they believe them to be correct.

J. C. Gatehouse
T. R. Weimer
W. V. Carr

Sworn and subscribed before me
the 19 day of December, 1938.

W. R. Gallagher
Prothonotary
OF THE JUDICIAL DISTRICT OF
CLEARFIELD COUNTY, PENN.

ORDER OF COURT

Now, the 19th day of December, 1938, upon consideration of the foregoing petition and upon motion of Frank G. Smith, County Solicitor, a rule is granted upon Roy Cole, Guy Knepp and Adah Mae Cole Knepp, his wife, to show cause why the said Roy Cole should not be required to intervene in said proceedings to the end that the rights of the said Roy Cole as mortgagee as well as the rights of Guy Knepp and Adah Mae Cole Knepp, petitioners for the appointment of viewers, and the liabilities of Clearfield County in respect of the premises involved in the said proceedings, may be adjudicated therein. Proceedings to be stayed pending determination of this rule.

By the Court,

J. H. Walker
P. J.

IN THE COURT OF QUARTER SESSIONS
OF CLEARFIELD COUNTY, PENNA.

No. 12, Sept. Sessions, 1938

In re: AP OINTMENT OF VIEWERS
TO ASSESS DAMAGES ON PETITION
OF GUY KNEPP AND ADA COLE KNEPP

W

And now Jan 9, 1939, service of the within
rule is accepted and issue waived.

Thompson & Baird
By David L. Baird
Attys. for petitioners

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

Re: Appointment of Viewers to :
Assess Damages on petition of :
Guy Knepp and his wife, Adah : No. 12, September Sessions,
Mae Cole Knepp. : 1938

PRAECIPE FOR ENTRANCE OF APPEARANCE

TO THE PROTHONOTARY OF THE SAID COURT:

Enter our appearance for and in behalf of Roy Cole
and Marie Cole, his wife, of West Decatur, Pa., intervening
petitioner.

THOMPSON & BAIRD

BY David L. Baird

March 20, 1939

IN THE COURT OF QUARTER SESSIONS OF
CLEARFIELD COUNTY, PENNA.

No. 12, September Term, 1938

Re: Appointment of Viewers to
Assess Damages on petition of
Guy Knepp and his wife, Adah Mae
Cole Knepp.

PRAECIPE FOR ENTRANCE OF
APPEARANCE

FILED
MAR 20 1939
W. R. GILGHER
CLERK

THOMPSON & BAIRD
ATTORNEYS AT LAW
PHILIPSBURG, PENNSYLVANIA

AGREEMENT BETWEEN J. C. GATEHOUSE, T. R. WEIMER and W. V. CARR, County Commissioners of Clearfield County, Pennsylvania, hereinafter referred to as County Commissioners, parties of the first part, and GUY KNEPP and ADA COLE KNEPP, his wife, hereinafter referred to as Owners, and ROY COLE, hereinafter referred to as Mortgagee, parties of the second part.

WHEREAS, Owners' property was affected by the improvement and relocation of a section of road in Boggs Township, Clearfield County, Pennsylvania, designated on the records of the Pennsylvania Department of Highways as Route 57, Section 4, and

WHEREAS, the said property was conveyed to Owners by deed from John F. Cole, dated November 27, 1936, recorded at Clearfield, Pa., in Deed Book 316, page 231, and

WHEREAS, said premises are subject to the lien of a certain mortgage from Owners as Mortgagor, to John F. Cole, as Mortgagee, dated December 1, 1936, recorded at Clearfield, Pa., in Mortgage Book 106, page 315, said mortgage having been assigned by John F. Cole to Roy Cole, the present owner thereof, by Assignment dated March 31, 1938, recorded at Clearfield, Pa., in Mortgage Book 109, page 231; and the bond accompanying said mortgage was entered in the Court of Common Pleas of Clearfield County against said Owners, to No. 35 May Term, 1937, and

WHEREAS, under a statutory right conferred upon him, the Secretary of Highways of the Commonwealth of Pennsylvania, has undertaken the improvement and reconstruction of said Route No. 57, Section 4, and

WHEREAS, the Secretary of Highways so notified the County Commissioners in writing of the contemplated improvements and reconstruction, and

WHEREAS, the County Commissioners agreed in writing to such improvement and reconstruction,

Now, therefore, this agreement

W I T N E S S E T H:

(1). In consideration of the premises and of the promises hereinafter set forth on the part of the Owners and Mortgagee, to be kept and performed, the County Commissioners agree to pay the said Owners and Mortgagee, parties of the second part herein, the sum of Five Hundred (\$500.00) Dollars.

(2). Owners and Mortgagee jointly and severally agree to accept said sum of Five Hundred (\$500.00) Dollars as full compensation for damages arising by reason of the improvement, reconstruction and relocation of the said section of highway in Boggs Township, Clearfield County, Pennsylvania, designated as Route 57, Section 4, and by reason of the taking of the land of said Owners for right of way purposes and for the inconvenience and incidental damages in connection therewith. The extent of said taking of land for right of way purposes is indicated on the plan of the Department of Highways, which plan is herein incorporated by reference.

(3). It is mutually understood and agreed that this agreement shall be filed by the County Commissioners in the office of the Prothonotary of Clearfield County; that if no exceptions are filed thereto within ten days after notice given by publication, as required by law, the County Commissioners will pay over to ^{and Mortgagee} Owners the said sum of Five Hundred (\$500.00) Dollars upon delivery to them of releases, quitclaims or other instruments as they may require, as aforesaid.

(4). It is further mutually understood and agreed that if exceptions to this agreement are filed within ten days after such notice, the proceeding shall be presented to the Court of Quarter Sessions of Clearfield County for its approval, that the Court shall fix a time for hearing the matter, at which time the parties hereto and any taxpayer interested therein and their witnesses shall be heard, and the Court shall either approve or disapprove the agreement, as it deems proper; if the Court dis-

approves the agreement and indicates a sum which it would approve if the County Commissioners, Owners and Mortgagee agree thereon, said sum shall be acceptable by County Commissioners, Owners and Mortgagee, and it is covenanted by and between the parties hereto that said sum shall take the place of the aforesaid sum of Five Hundred (\$500.00) Dollars; provided, however, that if the Court disapproves the agreement and fails to indicate a sum which it would approve, then and in such case this agreement shall be null and void, and Owners and Mortgagee, if they so desire, shall proceed to present their petition to the Court of Quarter Sessions for the appointment of Viewers to ascertain and assess damages in the manner provided by law.

IN WITNESS WHEREOF, the County Commissioners of Clearfield County, have hereunto affixed their signatures, duly attested by the Commissioners' Clerk, and Guy Knepp, Ada Cole Knepp, his wife, and Roy Cole, have hereunto set their hands and seals this 25th day of August A. D. 1939.

ATTEST:

Mary E. Lucas
COMMISSIONERS' CLERK

Witnessed by:

David P. Baird

J. C. Gathman
T. R. Heimer
W. V. Carr
County Commissioners

Ada Cole Knepp (SEAL)

Ada Cole Knepp (SEAL)
OWNERS

Roy Cole (SEAL)
MORTGAGEE

No. 12 Sept. 22 1938

COUNTY COMMISSIONERS OF
CLEARFIELD COUNTY

-WITH-

GOY KNEPP, et al.,

A G R E E M E N T

h

489

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

Re: Guy Knepp and his wife,
Ada Cole Knepp

} No. 12, Sept. Term, 1938

AND NOW, this ~~12th~~ day of December, 1938, after reading the above petition and upon the motion of Edward J. Thompson of counsel for the petitioner, it appearing that a copy of the said petition has been duly served upon the commissioners in and for the County of Clearfield, and further that no answer has been filed thereto, the rule granted in the above matter is hereby made absolute and the court appoints..... *A. B. Shaw, Esq.*....., *Harry Reese*....., and..... *H. A. Giles*....., as viewers in accordance with the prayer of the petition, and.....
....., 19__ at 10:00 A.M., is fixed as the date for the view upon the said premises.

BY THE COURT

H. Decker Lint
P.J.

IN THE COURT OF QUARTER SESSIONS
OF CLEARFIELD COUNTY, PENNA.
No. 12, Sept. Term, 1938

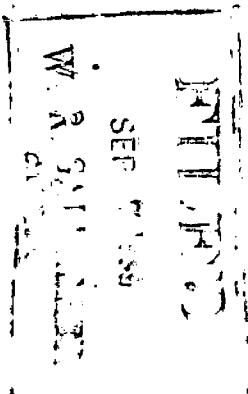
RE: Guy Knepp and his wife, Ada

Cole Knepp *Boggs Trust.*

THOMPSON & BAIRD
ATTORNEYS AT LAW
PHILIPSBURG, PENNSYLVANIA

REC'D
T. R. CLARK
2038

12 Sept 1938



Notice

The County Commissioners of Clearfield County, Pennsylvania, entered into an agreement with Guy Knepp and Ada Cole Knepp, Owners, and Roy Cole, Mortgagee, as to the amount of damages to be paid on account of the taking of certain land for State Highway purposes, as the result of the change in width, lines and location of State Highway Route No. 57, Section 5, where said State Highway crosses the land owned by said individuals, in Boggs Township, Clearfield County, Pennsylvania. Said agreement was filed in the office of the Prothonotary of Clearfield County on the 5th day of September, 1939, and any taxpayer of Clearfield County may file exceptions to said agreement before the 18th day of September 1939, if exceptions to said agreement are filed, the proceeding will be presented to the Court of Quarter Sessions of Clearfield County, Pennsylvania, at ten o'clock A. M. on the 21st day of September, 1939, where any taxpayer may appear and be heard, together with his witnesses.

Clearfield County Commissioners

9/6-1d-ch

Affidavit of Publication

STATE OF PENNSYLVANIA:

: S. S.

COUNTY OF CLEARFIELD :

Wm. C. Plummer, having been duly sworn according to law doth depose and say that he is Adv Mgr.

of the Clearfield Progress, a daily newspaper published in said County, and that the notice hereto attached was published in said newspaper on the following dates:

Sept, 6th, 1939.

The affiant also states that he has no personal interest in the notice attached hereto and that the dates and place of publication are true to the best of his knowledge and belief.

Wm C Plummer

Sworn and subscribed this 6th day of Sept., 1939.
before me.

Alton C. Davis
NOTARY PUBLIC
CLEARFIELD, PA.
My Commission Expires
March 5, 1941

Petition of Guy Knepp and his wife

Ada Cole Knepp for the

appointment of a Board of View

versus

to assess damages in Boggs

Township

In the Court of Quarter Sessions

of Clearfield County, Pa.

No. 12 Sept ss Term, 1938

Ex. No. 19

And now, 6th day of June, A. D. 1938, petition read and considered,
and a rule is granted on County Commissioners of Clearfield County to
show cause why viewers should not be appointed as prayed for in the
foregoing petition, returnable to the 13th day of June 1938, at 10:00 A.M.

Now August 8, 1938 Return day extended to Monday August 15, 1938 next.

Returnable

By the Court,

W. WALLACE SMITH

HON. SINGLETON BELL, P. J.

Certified from the record this 17th day
of August, 1938

W. R. Gallagher
Prothonotary

Now August 20th, 1938. ^{at 11:55 A.M.} Served the within Rule and Petition on the Board of County Commissioners of Clearfield County, by handing, to Myra Lucas, Chief Clerk of said board personally, a true and attested copy of the original Rule and Petition and making known unto her the contents thereof, in the County Commissioners Office, Clearfield, Pa.

So Answers,

John J. Sharkey
Sheriff.

8/192
No. 12 Sept Term, 1938

Petition of Guy Knepp and his
wife Ada Cole Knepp for appointment
of a Board of View to assess damages
-versus
in Boggs Township

RULE ON

Sheriff SHARKEY \$3.50

z
Edward J. Thompson

Attorney for Claimant

Attorney for Plaintiff

Attorney for Defendant

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE: :
GUY KNEPP and his wife, : No. 12, Sept. ~~25~~²⁶, 1938.
ADA COLE KNEPP :

PRAECIPE FOR APPEARANCE

To W. R. Gallagher, Pro.

Sir:

Enter my appearance as County Solicitor for Clearfield
County, in the above entitled case.

Frank G. Smith
County Solicitor

August 2~~5~~²⁶, 1938

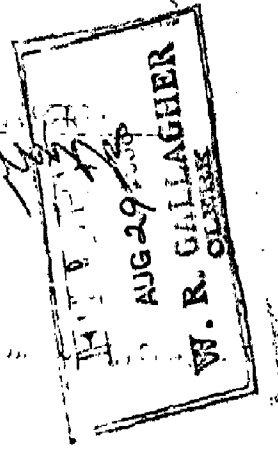
IN THE COURT OF QUARTER SES-
SIONS OF CLEARFIELD COUNTY, PA.

No. 12, Sept. ^{35.} ~~Term~~, 1938

In re;

GUY KNEPP and his wife,
ADA COLE KNEPP

PRÆCIPUE FOR APPEARANCE



IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE: GUY KNEPP and his
wife, ADA COLE KNEPP .

No....., Sept. Term, 1938.

PETITION FOR THE APPOINT-
MENT OF A BOARD OF VIEW.

TO THE HONORABLE W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:

The petition of Guy Knepp and his wife, Ada Cole Knepp respectfully represents:

1. The petitioners herein are Guy Knepp and his wife, Ada Cole Knepp, residents of West Decatur, Clearfield County, Pennsylvania.
2. The petitioners are the owners of a certain piece of land, the same having been conveyed to them by John F. Cole under deed dated November 27th, 1936, and recorded in the office for recording of deeds in Clearfield County in Deed Book Vol. 316 page 231, and being described as follows:

All that certain tract of land situate in Boggs Township, Clearfield County and State of Pennsylvania, bounded and described as follows:

Beginning at a post and stones on edge of land of Tyrone and Clearfield Railroad; thence 120 perches to old corner south 87° east; thence 8° west by lands of Hoover and Company 170 perches to a post on the north side of Erie Turnpike; thence by Turnpike the several courses and distances 160 perches more or less to stones at corner of Mrs. Lumadue's lot; thence by old north line 8° east 30 perches, more or less to post corner of Dimling's Spring Run; thence by Dimling's down said stream 27 perches the several courses and distances to the mouth; thence down Laurel Run the several courses and distances to a marked green Hemlock corner new 24 perches be the same more or less; thence by land sold to Hoover Hughes and

Company North 29° east to post and stones by railroad; thence by Tyrone and Clearfield Railroad 16 perches to old tract line, excepting and reserving therefrom lot sold to E. M. Peters; J. Cunningham, J. E. Gearhart, Mr. Thompson, Mrs. Lumadue and J. Potter Gearhart, the residue containing seventy two (72) acres more or less.

EXCEPTING AND RESERVING (a) one and three quarter acres of ground sold to Burton Mills; (b) two and one fourth acres of ground sold to Charles Mills; and (c) all lots and parcels of land heretofore sold and reserved and excepted in the deed dated Nov. ____, 1912, between J. W. Gearhart, Adm. etc. and Jesse Smeal recorded in Clearfield County on Dec. 27th 1912, in deed book No. 197, page 221, together with all lots and parcels of land sold at any time heretofore, and not herein otherwise expressly mentioned. And being the same premises which became duly vested in Jesse Smeal in his lifetime and who died on the 5th day of June 1915, seized thereof in fee, leaving to survive him his two daughters, Mertie B. Kyler and Ella Maud Flegal and two sons, Edgar Smeal and Leonard Smeal, to whom the said described real estate did descend and come by virtue of the intestate laws of the state of Pennsylvania, and the said Edgar Smeal et. ux, by their deed dated August 26th, 1916, and recorded in Clearfield County in Deed Book No. 214, Page 141 granted and conveyed their undivided one fourth interest in the said described premises unto Leonard Smeal.

3. During the summer, fall and winter months of 1937 the Commonwealth of Pennsylvania, Department of Highways, relocated and rebuilt the section of the Lakes-to-Sea Highway further known as United States Highway No. 322, and as Pa. Legislative Route No. 57, from Philipsburg, Centre County, Pa. to West Decatur, Clearfield County, Pa., said changes constituting in entire relocation of the said highway and the construction of a concrete road thereon.

5. Before the said Department of Highways agreed upon the program of the improvement of the said highway, the Secretary of Highways duly notified the County Commissioners of

Clearfield County of those changes in conformity with Section 16 of the Act of May 31, 1911, P. L. 468 and its amendments.


6. The County Commissioners of Clearfield County upon receipt of said notice of the proposed reconstruction and improvement of said highway agreed to the said proposed certain changes and further agreed to assume liability for the property damages in connection with this project.

7. By virtue of the said relocation of the aforesaid highway by the Pennsylvania Department of Highways, the petitioners' property was appropriated for said relocation, and that it was damaged and its value greatly decreased, but caused largely by the relocation and construction aforesaid.

8. The County Commissioners of the Clearfield County have failed to comply with the requirements of the Act of Assembly of May 31, 1911, P. L. 468, Section 16, and its supplements and amendments, and have made no attempt to enter into any agreement with the petitioners to reimburse them for the damages they have suffered as stated herein.

WHEREFORE your petitioners pray your Honorable Court to grant a rule upon the County Commissioners of Clearfield County to show cause why a board of viewers should not be appointed to view the premises of the petitioners and to assess such damages as they may find to have been suffered by the petitioners and to report the same to your Honorable Court as in such cases made and provided.

And your petitioners will ever pray, etc.

Thompson & Baird
By 
Attorneys for Petitioners.

AFFIDAVIT

COMMONWEALTH OF PENNA. :
: SS:
COUNTY OF CENTRE :

H. Guy Knepp and his wife, Adah Cole Knepp, depose and say that they are the petitioners above mentioned and the facts set forth in the foregoing petition are true and correct to the best of their knowledge and belief.

Adah Cole Knepp

H. Guy Knepp

Sworn to and subscribed before me this 27th day of May, 1938.

Jm Pearce

MY COMMISSION EXPIRES FIRST MONDAY
IN JANUARY 1940

ORDER OF COURT

AND NOW this ~~6th~~ ^{June} day of ~~July~~, 1938, a rule is granted on the County Commissioners of Clearfield County to show cause why viewers should not be appointed as prayed for in the foregoing petition, returnable to Monday....., the ~~12th~~ ^{June} day of....., 1938, at 10:00 A.M.

BY THE COURT,

J. Keller Smith
P.J.

Now August 8, 1938. Return day extended to Monday August 15th next.

J. Keller Smith

Now August 29, 1938. Return day extended to Monday Oct. 3, 1938 at 10:00 A.M.

J. Keller Smith

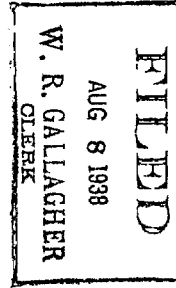
IN THE COURT OF QUARTER SESSIONS
OF CLEARFIELD COUNTY, PENNA.

13.

No. 123, Sept. Term, 1938

IN RE: GUY KNEPP and his
wife, ADA COLE KNEPP.

PETITION FOR THE APPOINTMENT
OF A BOARD OF VIEW.



THOMPSON & BAIRD
ATTORNEYS AT LAW
PHILIPSBURG, PENNSYLVANIA

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