

**Leonard v. Roebuck Teaching Resources**

**Excerpts from trial record of archival case file of *Leonard v. Roebuck*, 152 Ala. 312 (1907). The full archival case file is located in the Alabama Department of Archives & History, Montgomery, Alabama.**

Deposition of John F. Leonard.

My name is John F. Leonard. Mr. Dorrity told me that I could buy Lurena's Roebuck's interest in her father's estate, consisting of 80 acres of land lying the other side of Irondale, about three miles distant therefrom. He told me that I could buy it for \$15.00.

Did he or not tell you that he had an interest in the land? (Complainant objects to the question on the ground that it calls for illegal evidence, not proper way to prove title, and calls for hearsay.)

He told me that he and Clark xxxxx owned an undivided interest in 40 acres, and that Mrs. Wideman owned the other 40 acres. (Complainant moves to exclude the answer on the same grounds assigned as objections to the question.)

This land is about three or three and one half miles from Irondale, on the mountain. The land referred to in the NE ¼ of SE 1/4 , and SE ¼ of SE ¼ of Section 30, Township 17, Range 1 West, which is a correct description. After Dorrity told me about this land, I went out to see Lurena Roebuck. Before she married her name her name was Lurena Ellard. John Vary went with me when I went out to see her. He went out as Notary Public. He went to take her acknowledgement of the deed, in case we made a trade. John Vary was there with me all the time while I was there. I made a trade with her about the land. I first agreed to give her \$20.00 for the land. She said that she was perfectly satisfied with the trade and said that that was more than she expected to get out of it.

Did she or not say the land had been sold for taxes? (Complainant objects to the question that it is not the best evidence of the sale.)

Yes. (Complainant moves to exclude the answer on the same grounds assigned as objections to the question)

She told me that there was a lawsuit about this land. She told me that there were other parties claiming this land. She and her husband came down to my place of business and I paid them \$35.00 purchase money for the land. His wife was with him at the time he signed the deed. And at the time I paid him the balance of the \$35.00 purchase money for the land.

Did you or not know of this land being sold for taxes, and the litigation pending? (No objections.)

I knew of the litigation pending in the name of Lurena Ellard who is now Lurena Roebuck, and of the land being sold for taxes and being claimed by other parties before I bought the land. I think that the price paid is all that it was worth at the time I bought same. I do not know the value of land out in that vicinity...

...Did or not they both each individually tell you that they both got more out of this land they they ever expected to get? (Complainant objects to the question on the ground that it calls for illegal and incompetent testimony.)

They did (Complainant moves to exclude the answer on the same grounds assigned as objections to the question.)

She is a mulatto woman. Her husband is brown skin.

Are they or not above the ordinary intelligence of their class in society? (Complainant objects to the question on the ground that it calls for a conclusion of the witness, illegal and incompetent testimony.)

They are...

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Lurener Robeuck v. John F. Leonard ) In Chancery in Birmingham, Ala.

Testimony taken before the Register 11/17/1906.

Lurener Roebuck, being first duly sworn testified:

I am the complainant in this cause and am 22 years of age and reside in Jefferson County, Alabama. Mr. John F. Leonard, the respondent, is over the age of 21 years of age and resides in Jefferson County, Alabama. I live about a mile and a half in the Country above East Lake. I was living there on and prior to the 30th day of May, 1906. Prior to that date I was the owner of the NE 1/4 of the SE 1/4 and the SE 1/4 of the SE 1/4, Sec.30, Tp. 17, R. 1 West, in Jefferson County, Alabama. I am the only child of Jackson Ellard, deceased. He owned the land in his life time; he entered it. I know Mr. John F. Leonard. On the 30th day of May, 1906, he came out to my house to see me. He came to my house at about 11 A.M. on that day and asked me would I sell him my claim in 20 acres of land that Mr. Dougherty was in possession; I told him I did not know what about it; that I did not want to sell it; and he said that makes no difference he wanted to buy it; that Mr. Dougherty sent him out there. I told him that I did not know anything about it; that my uncle was attending to it, and he said that Mr. Dougherty said he had already seen my uncle about it and he said it would be all right. I told him I didn't want to sell it unless I could see my uncle. And he said, Oh well I want to buy it, and Mr. Dougherty sent me out here; and he said that he would give me \$10.00 down then if I would sell it. He said that if it was not agreeable to my husband that he would give me the money back; I told him that I did not want to take that, and he told me to take it anyhow and me and my husband could come into town and sign that I was willing to take it. He went ahead and gave me \$10.00 and told me to sign my name that he had paid me ten dollars, and I signed my name and he told me then to come into town and get the rest of the money if my husband was willing to it.

When we came into town he was not willing to take that for it, and I offered him the money back and he agreed to give \$35.00, and paid \$5.00 that day, and I came back and he paid me the other \$20.00; he paid me in all \$35.00. I told him that I was not satisfied with it. He says well you have got to be; I have got the whole forty now. I told him I did not sell but 20 acres. He did not ask me to sell him but 20 acres. Mamma told him that she had something to say in it, and she was going to see if she could not get it back. He said all right that he had done bought it and had the whole thing. We come on away then and left him alone.

We then come to see Mr. Terry about it. He told me he would do all he could for me. He said he would come over here and see how much the deed was for. (Objection by Mr. Vary to what Mr. Terry said on ground that it is hearsay evidence, and that it is irrelevant and immaterial and because the witness W.K. Terry is here to testify himself.) Mr. Terry came back and wrote to me that the deed called for 80 acres. (Objected to on ground that it is not responsive to the question.)

I went back to Mr. Leonard and told him I would give him his money back. Before that time I thought I had sold him 20 acres. Before I went to Mr. Terry's office I did not know that I had deed him more that 20 acres. After I found out that I had deeded him more than 20 acres, I went

to see Mr. Leonard when I came back to town, after receiving a letter from Mr. Terry. I told him that he had got the whole 80 and I did not know I was deeding him the whole 80. He said, "Well you have." I asked him then would he give me the land back and take his money and he said "No. if I lose, I lose." that he would not take the money back. I told him I wanted him to take it back, or I would try the law about it, and he said for me to tell my lawyer to pop his whip. I told him all right. Then I left. I told him I would give him back the money, but I did not have it with me at that time. He said he did not want it.

I am colored. I have never had any experience in business affairs. I know nothing about land numbers. I do not know how many acres of land there are in quarter sections. Mr. Leonard read that deed over to me. When he read it over to me, I did not know how many acres there were in the deed. He said 20 acres. Mr. Leonard said that he was buying the 20 acres that Mr. Dougherty was in possession of. I relied on what Mr. Leonard told me. I sold it to him for 20 acres because he told me it was 20 acres. That land is worth \$30.00 per acre. The 30th of May, 1906, it was worth \$30.00 an acre.

Cross examination.

When I signed the deed, Mr. Jno. Vary was present and Mr. Leonard. Mr. Vary told me he was a Notary Public to take my acknowledgement to the deed. My mother in living. This land is two miles from Irondale. I have a lawsuit over a part of this land about the part claimed by Mrs. Wideman. The land has been sold for taxes, all of it. Mr. Dougherty had no claim to it as a tax tile. Mr. Wideman claims that he has a tax title to the land.

Q – Have you got a lawsuit with a man by the name of Sohuits over this land? (Objected to on ground that it is res inter alios acta, and incompetent, irrelevant and immaterial)

A – Yes.

It has been about three months since I have seen this land. I estimate the value of this land for farming purposes. I do not know the market value of land in the vicinity of my land. I don't know Mr. Fulghum's place. Joe Hagood's place joins my place on the North. I do not know who joins me on the South. On the East Harrison Grace adjoins me. On the West Barry Hall adjoins me. I am a mulatto woman. I have been to school a little bit. I can read and write a little, not much.

Re-direct.

Q – On what do you base your knowledge on of what land is worth up there?

A – Uncle Hardy Hall told me what land was worth up there. (Objected to on ground that it is hearsay evidence and because witness does not know of her own knowledge the market value of land in that vicinity.) I do not know how far that land is from Birmingham. It is east from Irondale.

Q – Do you know of any land having been sold up there recently? (Objected to on ground that question does not specify whether it was before or after this law suit, and because witness does not know the value of land in that vicinity and because irrelevant.)

A – I do not. This is the only transaction of land I have ever had.

(This last sentence of witness was in response to a question asked by Mr. Terry, Counsel for appellant; after witness had answered the question, Mr. Vary said counsel objected to the question. The commissioner made the remark that a question could not be objected to after it had been answered.)

Mr. Vary was present when the deed was signed. That was Mr. Leonard's first visit to me. I know Mr. Vary's face. I did not sign up any deed in town. (The last sentence was in response to a question asked by Mr. Terry, counsel for complainant. After the question had been answered, it was objected to by Mr. Vary, counsel for the respondent, upon the ground that it is no new matter brought out by the cross examination or inquired about.)

Q – Was anybody else present at the time you signed this deed except Mr. Vary, Mr. Leonard and yourself? (Objected to on ground that it calls for no matter cross examined about.)

A – No sir.

Q – When did your husband sign the deed? (Objected to on ground that it is no new matter brought out on cross examination and is same old matter he has inquired about.)

A – Along about the first of June. He signed it down at Mr. Leonard's place of business. I was there. That was before I came to Mr. Terry's office about it.

Lurener Roebuck

Testimony of Isham Roebuck.

I am the husband of Lureuer Roebuck. I am 24 years old. I did not know anything about the sale of this land. I was at work at the time. I come in that night and my wife said there was a man out there to see her about buying her share in 20 acres of land. I signed the deed down at Mr. Leonard's place of business. Mr. Leonard was present. My wife was there but was in another room at the time I signed. She was not satisfied to take the \$10.00 for it, and was not either and I told her if he couldn't give her more than that just to give the land to him. He said "How much to you want" that is what Mr. Leonard said. "I will give \$35.00" Mr. Leonard was doing business for a man in Montgomery. Then he asked me to sign the deed and before I signed the deed I said to him "I want satisfaction, and if I don't get it, I want you to take the money back". He said "Yes", before Jno. Vary. Then I signed the deed and walked out. Mr. Leonard said the deed called for 20 acres. I couldn't read and did not read the deed. That is the only deed I signed for Mr. Leonard. The only writing I can do is to write my name.

Q – Do you know anything about your wife offering Mr. Leonard his money back? (Objected to because question does not say anything about the kind of money that was offered.)

A – I do. It was here in town where Mr. Leonard works. She went to him and called him out and said "Mr. Leonard I did not know that you got all the land; you just bought my share of 20 acres". He says "No I got the whole 80", she says "Here's your money back". He says "No I don't want it". She says "Well I will go and see a lawyer about it". He tells her "All right, go ahead and pop your whip. When that offer was made to Mr. Leonard I was present and my mother, and her uncle and Mr. Leonard. I can't think of the man's name in Montgomery. I think it was Dougherty.

Cross Examination.

I am colored. I am brown skin. I never went to school. We tendered Mr. Leonard \$35.00 in green back. I did not count out the money to him, because he said he did not want it. I never pulled out the money in my hand and offered it to him. My mother-in-law did not do more talking at that

time than the rest of us. This conversation was after I had signed the deed. It was longer than two or three weeks.

Isham Roebuck.