

PLANTERS LUMBER COMPANY, INC. v. THE WILSON
COMPANY, INC.

5-4108

413 S. W. 2d 55

[Supplemental opinion on rehearing. Rehearing denied.]

[Original opinion delivered February 13, 1967, p. 1005,
413 S. W. 2d 55.]

1. MORTGAGES—LIEN & PRIORITY—REVIEW.—Appellee could not claim priority of its lien where the full amount of the mortgage money was not disbursed and there was a guarantee placed of record whereby lender was committed to a stipulated advancement for construction purposes.
2. MORTGAGES—LIEN & PRIORITY—REVIEW.—Appellee held entitled to priority for interest on \$11,334.19 as to lot 2; and for interest on \$10,805.72 as to lot 4; chancellor's findings on minor awards would not be disturbed on appeal.

LYLE BROWN, Justice. Appellee, The Wilson Company, Inc., contends there is no distinction between the case at bar and *Sebastian B. & L. Assn. v. Minten*, 181 Ark. 700, 27 S. W. 2d 1011 (1930). In *Minten* the lender disbursed the full amount of the mortgage money. In *Minten* there was no guarantee placed of record whereby the building and loan association was committed to a stipulated advancement for construction purposes. In both these respects the opposite is true in the case at bar.

We are asked to clarify our opinion with respect to Wilson's priority for interest. As to Lot 2, Wilson is entitled to priority for interest on \$11,334.19; as to Lot 4, Wilson is entitled to priority for interest on \$10,805.72. With regard to clarification requested by appellee on certain minor items, it is sufficient to say that the chancellor made awards in these respects and we do not disturb them on appeal.