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Shelley v. Kraemer: "My Little Soul is
Overjoyed"

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In 1947, in the context of changing attitudes about race and a historic shift in federal policy on the practice of segregation in housing, punctuated by President Harry S. Truman's spirited attack on discrimination in America, the Supreme Court delivered a landmark decision in *Shelley v. Kraemer* that rendered racial covenants unenforceable. In a 6-0 opinion authored by Chief Justice Fred Vinson, the Court destroyed the most efficient and systematic tool for maintaining Jim Crow traditions and denying racial minorities from accessing decent housing.

Shelley marked a dramatic turning point in American law. Racial covenants had been upheld by the Supreme Court in *Corrigan v. Buckley* (1926), and were, therefore, widely enforced in northern states as a means of promoting segregation in housing. The practice contributed significantly to an acute housing shortage for Black Americans in the years following World War II.

While covenants had been upheld by the Court, the Justices had refused to entertain a crucial question: Is judicial enforcement of racial covenants in fact a form of state action and thus a violation of the Equal Protection and Due Process clauses of the 14th Amendment? In the years after *Corrigan*, the question had been repeatedly submitted to the Court, but each time, the Justices declined the opportunity to consider the question.

Shelley v. Kraemer arose out of the enforcement of a racial covenant. J.D. Shelley and his wife, Ethel, had saved money to buy a home in a tree-shaded, predominately white neighborhood, in St. Louis. The Shelleys and their neighbors got along fine. Life was good. However, the Kraemers, who lived ten blocks away, were not friendly with the Shelleys. They hired a process server who delivered a summons informing the Shelleys that the deed to their home included a covenant, recorded in 1911, which barred ownership or occupancy on their block by "people of the Negro or Mongolian Race."

The Shelleys sued, and prevailed, in a state Missouri trial court, but the ruling was reversed by the Missouri Supreme Court, creating grounds for an appeal to the US Supreme Court.

The Shelleys' appeal became one of four cases, collectively formed as the "Restrictive Covenant Cases," brought by the NAACP, under the leadership of Thurgood Marshall, then Chief Counsel for the organization and later a Supreme Court Justice. Less than a week after the appeal was filed at the end of June 1947, the Truman White House announced a bold, new policy on civil rights in America.

Upon learning of a series of lynchings of Black Americans, in addition to a flood tide of hate literature and other acts of racism, President Truman created a civil rights commission and delivered a thunderbolt in an address to the 38th annual conference of the NAACP in front of the Lincoln Memorial. "The extension of civil rights today means not the protection of the people against the government, but protection of the people by the government." Truman's speech electrified civil rights and civil liberties groups, which successfully pressed for governmental denunciation of racial covenants.

For the first time, the justice department submitted an amicus brief in a case in which only private citizens were litigants. The state department argued in a brief that the nation was being widely criticized abroad for its widespread practice of racial discrimination.

As Chief Justice, Vinson exercised his authority to write the Court's opinion. Three Justices—Robert H. Jackson, Stanley Reed and Wiley Rutledge—recused themselves from the case, presumably because they owned or occupied homes that were the subject of a racial covenant, would have constituted a serious conflict.

Vinson wrote a narrow, but powerful opinion. "These are not cases, as had been suggested, in which the states have merely abstained from action, leaving private individuals free to impose such discriminations as they see fit." "Rather," he wrote, "these are cases in which the states have made available to such individuals the full coercive power of government to deny on grounds of race, or color, the enjoyment of property rights in premises in which they are willing and able to acquire and which the grantors are willing to sell."

Shelley represented a historic victory for Black Americans. As of that moment in America, Blacks enjoyed the right to buy any home they could afford. The Equal Protection Clause had been vindicated. And Ethel Shelley couldn't have been happier as she shared news with her family that they could keep their house. "My little soul is overjoyed," she said. "I'll tell the Lord of my thankfulness."

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