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IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

119-8
4 pgs

GERTRUDE BARNARD SMITH, Plaintiff,	)	
vs.	)	NO. 64130
CLELL WILSON SMITH, Defendant.	)	

FINAL DECREE (ORDER)

This cause came on to be heard on the 24th day of August, 1973, before the Honorable Harry S. Lester, Special Judge, upon the Complaint for Absolute Divorce, the order pro confesso heretofore entered against the Defendant, the testimony of the Plaintiff and other witnesses in open court in support of the allegations of the complaint, the exhibit introduced into evidence, the argument of counsel and the entire record, from all of which the Court is of the opinion that the allegations contained in the complaint are fully sustained, i.e., that the Defendant is and has been guilty of such cruel and inhuman treatment or conduct toward the Plaintiff as renders cohabitation unsafe and improper, and that the Complaint for Absolute Divorce should be sustained and the Plaintiff granted the relief therein prayed; it is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff, Gertrude Barnard Smith, be and she is hereby granted an absolute divorce from the Defendant, Clell Wilson Smith, and the bonds of matrimony heretofore subsisting between the parties be and they are hereby perpetually dissolved.

And it further appearing to the Court that the parties, prior to the hearing, have made and entered into an agreement which settles their respective property rights between them, which agreement is in words and figures as follows:

"SEPARATION AND PROPERTY SETTLEMENT AGREEMENT

"THIS SEPARATION AND PROPERTY SETTLEMENT AGREEMENT made and executed this 9th day of November, 1971, by and between Gertrude Barnard Smith and Clell Wilson Smith, husband and wife, of Nashville, Tennessee.

"W I T N E S S E T H:

"WHEREAS, the parties hereto are man and wife and due to marital difficulties are separated from each other and are living apart, and the wife has filed a complaint for divorce against the husband in the Fourth Circuit Court for Davidson County, Tennessee; and

"WHEREAS, there appears to be no chance for reconciliation of the parties and they desire to settle all of their property rights by mutual agreement;

"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. As her lump-sum alimony, the husband agrees to give and the wife agrees to accept the following:

"(a) The sum of One Hundred Forty-Two Thousand Four Hundred Dollars payable in cash within three days from the date hereof.

"(b) The husband agrees to convey to wife all of his right, title and interest in and to the residence and home of the parties located at 413 Wimpole Drive, Nashville, Tennessee, and any and all furniture, furnishings, household applicances, equipment and personal effects therein (with the exception of the clothes and personal effects of husband), the conveyance and transfer of which is to be effected by a deed of conveyance and bill of sale executed and delivered by husband to wife within three days from the date hereof. Said conveyance is to be made subject to the balance due on a mortgage presently encumbering the said residence, which balance is to be assumed by wife and which she agrees to pay.

"(c) Husband agrees to transfer and assign, or cause to be transferred and assigned, to wife, without any encumbrances, that certain 1970 Cadillac automobile which she has been using. Said transfer and assignment is to be effected by proper endorsement of the title and bill of sale executed and delivered by husband to wife within three days from the date hereof.

"(d) Husband agrees to file timely tax returns and pay any tax of any nature that is due or may become due on any of the cash or

any of the other items listed in this paragraph 1. Wife agrees to sign with husband any proper joint tax returns for the 1971 taxable year.

"(e) Husband agrees to indemnify and hold wife harmless from any tax liability of any nature for the calendar year 1971 and any prior year or years and further agrees to indemnify and hold wife harmless from any liability arising out of any promissory note, guaranty of payment, endorsement or any other evidence of indebtedness which wife has heretofore jointly signed or executed with husband and which remains outstanding or enforceable as of the date hereof.

"2. Husband agrees to pay to the law firm of Gullett, Steele, Sanford, Robinson & Merritt the sum of Five Thousand Dollars as a reasonable attorneys' fee for the representation of wife for services rendered in connection with all matters relating to this agreement and in the divorce action which wife has filed, it being agreed and understood husband shall not be responsible for any other or additional attorneys' fees for the said attorneys representing wife or any other attorneys who may represent her in said matters.

"3. Husband and wife agree that this agreement and the payments, transfers of property and other acts in execution and furtherance of this agreement shall operate to relinquish, surrender and discharge the respective marital rights of husband and wife and all rights which either may have in the estates and properties of the other, present and future, and wife hereby agrees to accept the property herein designated to be conveyed and given to her and the payment to be made to her in complete satisfaction of all of her rights of alimony and support against husband, both present and future, and the parties agree that any decree of divorce may so provide. Except as herein provided, wife waives any interest in or rights to the Natchez Trace Apartments and any other property of any nature owned or held separately by husband or jointly by husband and wife.

"4. Each party hereto expressly reserves the right to either file or defend a divorce action against the other in a court of competent jurisdiction, and nothing contained herein shall be construed as an

agreement on the part of either of the parties hereto that the other party has grounds for divorce against him or her or that they in any way waive any rights in any such divorce action which has been filed or may be filed, except those property rights which are settled and provided in this agreement.

"IN WITNESS WHEREOF, the parties have hereunto subscribed their names on the day and date first above written at Nashville, Tennessee.

"(s) Gertrude Barnard Smith
Gertrude Barnard Smith

"Witness:

"(s) Jack W. Robinson

"(s) Clell Wilson Smith
Clell Wilson Smith

"Witness:

"(s) William H. Lassiter, Jr."

And it further appearing to the Court that the aforesaid agreement of the parties should be approved and be made the order of this Court, it is further

ORDERED, ADJUDGED and DECREED by the Court that the foregoing agreement of the parties is in all things hereby confirmed and approved by the Court and is adopted and made an order of this Court; and pursuant thereto, the Court being advised that the Defendant has heretofore satisfied his obligations under said agreement with respect to payment of the lump-sum amount and transfer of the automobile therein provided but has not conveyed to the Plaintiff his interest in the residence located at 413 Wimpole Drive, Nashville, Tennessee, and the furnishings therein as provided in said agreement, it is further

ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff, Gertrude Barnard Smith, be and she is hereby awarded and vested all right, title and interest in and to the following described real property situated at 413 Wimpole Drive, Nashville, Tennessee, subject to any existing indebtedness, and in all furniture, furnishings, household appliances, equipment and personal effects therein (except for any clothes and personal effects of Defendant), the Defendant's interest in the same being hereby divested out of him and vested solely in the Plaintiff:

A certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to wit:

Being Lot No. 166 on the Map of Glencliff Estates, Section VII, as of record in Book 2331, page 73, Register's Office for said County.

Said Lot No. 166 fronts 131.3 feet on the south side of Wimpole Drive and runs back 405 feet on the east line and 348.8 feet on the west line to Mill Creek on which it measures 130 feet more or less.

Being the same property conveyed to Clell W. Smith and wife, Gertrude G. Smith, by deed from Leonard Todd and wife, Roberta A. Todd, as of record in Book 3646, Page 29, Register's Office for said county.

It is further ORDERED, ADJUDGED and DECREED by the Court that both the Plaintiff and the Defendant shall carry out and perform all of the agreements and obligations undertaken by them and imposed upon them by the terms of the aforesaid agreement, and are ordered so to do by the Court; and it is further

ORDERED, ADJUDGED and DECREED that the costs of this cause are adjudged against the Defendant, for which execution may issue if necessary.

Enter This 12th day of Sept. 1973

S/ Harry Lester
SP. JUDGE

APPROVED FOR ENTRY:

GULLETT, STEELE, SANFORD,
ROBINSON AND MERRITT

S/ By Jack Wright Robinson
Jack Wright Robinson
Attorneys for Plaintiff

S/ William Lassiter, Jr.
William H. Lassiter, Jr.
Attorney for Defendant

Mail 530/417

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IDENTIF. REFERENCE

OCT 16 1 37 PM '73

FELIX Z. NIELSON REGISTER
DAVIDSON COUNTY, TENN.

OCT 16 MISC A* 12.00 * 12.00

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 correct transcript of the record and proceedings had in said Court in the case heretofore prosecuted and determined therein, between* GERTRUDE BARNARD SMITH *Plaintiff, and* CLELL WILSON SMITH *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* 12th. *day of* OCTOBER *in the year one thousand nine hundred and* SEVENTY THREE *and in the* 198th. *year of American Independence.*

GEORGE L. ROOKER, *Clerk.*

By Jane Smith, *D. C.*

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