BOOK 5056 PAGE 299

DECREE ENTERED MAY 24, 1976--M.B. 97, PAGE 420

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
PART II

43-1
14
PW

WILLIAM C. BALFANZ, et al	*	
	*	
-v-	*	No. A-6868-A
	*	
LUCIEN DALE, et al	*	

FINAL DECREE

AUG 11 MISC 3* 10.00 * 10.00

This cause came on to be heard on May 13, 1976, before the Honorable C. Allen High, Chancellor of the Chancery Court of Davidson County, Tennessee, Part II, upon the pleadings, exhibits, evidence adduced by the respective parties and the record of this cause as a whole, from all of which this Honorable Court took the matter under advisement and issued a memorandum upon May 14, 1976, wherein the Court found that the foreclosure sale of February 13, 1975, concerning the below-described property of plaintiffs should be set aside.

It is, therefore, ORDERED, ADJUDGED and DECREED that the foreclosure sale of February 13, 1975, evidenced by Substitute Trustee's Deed from Lucien Dale, Substitute Trustee, to Robert W. Parkhurst and Edd R. Turner III, of Record at Book 5000, Page 286, Register's Office of Davidson County, Tennessee, be and hereby is set aside and held invalid.

It is, further, ORDERED, ADJUDGED AND DECREED that William C. Balfanz be, and hereby is, restored to full, right, title and interest to the below described property situated in Davidson County, Tennessee:

> Lot #130 Dalemere Subdivision, Section #6, as recorded 8/11/65, Book 3700, page 22, the Register's Office for Davidson County (Nashville), Tennessee.

Said lot is conveyed subject to the restrictive covenants of Dalemere Subdivision Section 6, as recorded in Book 3922, page 683, Register's Office for Davidson County, Tennessee, and the easements shown and recorded on the Plat of record, Book 3700, page 22.

Conveyance is subject to easement of Tennessee Natural Gas Co., which crosses Lot #130 and is recorded in Book _____, Page _____, Register's Office of Davidson County, Tennessee.

Being part of the same property conveyed to Oliver H. Dale & wife, Claudine M. Dale by Deed from Andrew Cecil Dale and wife, Mattie C. Dale, of record in Book 3615, page 111, Register's Office for Davidson County, Tennessee.

It further appearing to the Court that the Substitute Trustee, defendant, Lucien Dale, has excess funds from the foreclosure amounting to Two Thousand Six Hundred Forty-Four and 79/100 ($2,644.79) Dollars and that said funds should be paid into the hands of the Clerk & Master,

It is, therefore, ORDERED, ADJUDGED and DECREED that the defendant, Lucien Dale, Substitute Trustee, shall immediately pay into the hands of the Clerk & Master of this Court the amount of Two Thousand Six Hundred Forty-Four and 79/100 ($2,644.79) Dollars to be placed in the same account with the plaintiffs' previous deposit of Twelve Thousand Two Hundred ($12,200.00) Dollars.

It further appearing to the Court that the defendants-purchasers, Robert Parkhurst and Edd R. Turner III, must be made whole and that to do so they are entitled to be paid Twelve Thousand Two Hundred ($12,200.00) Dollars plus interest at ten (10%) percent for a ninety day period plus recording fees and

loan costs expended by them in this transaction,

It is, therefore, ORDERED, ADJUDGED and DECREED that upon completion of the above-stated deposit by the Substitute Trustee, the Clerk & Master of this Court is directed to pay to the defendants, Robert Parkhurst and Edd R. Turner III, Twelve Thousand Two Hundred ($12,200.00) Dollars plus interest at ten (10%) per cent over a period of ninety days plus recording fees and loan costs, the said total of that amount to be submitted by agreement of attorneys for plaintiffs and defendants, Parkhurst and Turner, or to be determined upon reference if an agreement cannot be reached.

It further appearing to the Court all surplus funds from the above-stated account should then be paid over to the plaintiff, William C. Balfanz, after deducting costs which may be assessed against him below,

It is, therefore, ORDERED, ADJUDGED and DECREED that after making the aforestated payment, the Clerk & Master of this Court shall pay to plaintiff, William C. Balfanz, any surplus funds from the aforestated account, after deducting costs which may be assessed against him.

It further appearing to the Court that the cross-claim or counter-claim of Lucien Dale, Successor Trustee, against the plaintiffs should be dismissed.

It is, therefore, ORDERED, ADJUDGED and DECREED that the cross-complaint or counter-complaint of Lucien Dale, Successor Trustee, against plaintiffs be, and hereby is, dismissed.

It further appearing to the Court that the third-party complaint of Oliver Dale and Claudine Dale against third-party defendant, Patrick Kennedy, is without merit and should be dismissed,

It is, therefore, ORDERED, ADJUDGED and DECREED that said third-party complaint of Oliver Dale and Claudine Dale against Patrick Kennedy be, and hereby is, dismissed.

It further appearing to the Court that the costs of the original cause should be taxed to the plaintiff, William C. Balfanz and the cost of the counter-complaint and third-party complaint should be taxed against the defendants, Oliver Dale and Claudine Dale,

It is, therefore, ORDERED, ADJUDGED and DECREED that the costs of the original cause in this suit be, and hereby are, taxed against the plaintiff, William C. Balfanz, for which execution may issue if necessary.

It is, further, ORDERED, ADJUDGED and DECREED that the costs of the third-party complaint herein be, and hereby are taxed against the defendants, Oliver Dale and Claudine Dale, for which execution may issue if necessary.

ENTERED this 24 day of May, 1976.

s/C. Allen High
Chancellor

APPROVED FOR ENTRY:

HOOKER, KEEBLE, DODSON & HARRIS

By s/Gareth S. Aden
Gareth S. Aden
Attorney for Plaintiffs

CERTIFICATE OF THE CLERK AND MASTER

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

I, RAYMOND L. BARRETT, Clerk and Master of the Chancery Court of Davidson County, Tennessee, do hereby certify that the foregoing is a full, true and correct copy of the Decree entered the 24th day of May, 19 76, in Minute Book 97, Page 420 in the cause wherein WILLIAM C. BALFANZ, ET AL are the Complainant s, and LUCIEN DALE, ET AL are the Defendant s, Rule Number A-6868-A, as the same appears of record and now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of said Court at my office in the Courthouse at Nashville, Tennessee, this the 11th day of August, 19 76, and 201st year of American Independence.

RAYMOND L. BARRETT, Clerk and Master

By: Patricia G. Bowie
Deputy Clerk and Master

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