M. 7-15
P. 13-15
16 pw

BOOK 5089 PAGE 189

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE, SOUTHERN DIVISION

IN RE:	)	
	)	IN PROCEEDINGS FOR AN
HAMILTON MORTGAGE CORPORATION	)	ARRANGEMENT UNDER CHAPTER
	)	XI
Debtor	)	
KYLE R. WEEMS, TRUSTEE FOR HAMILTON MORTGAGE CORPORATION	)	
Plaintiff	)	
-vs-	)	CASE NO. BK-1-76-264-E-48a
FEDERAL DEPOSIT INSURANCE CORPORATION, LIQUIDATOR FOR HAMILTON NATIONAL BANK, CHATTANOOGA, TENNESSEE, WEBB HOMEBUILDERS, INC.; CLARK HARDWARE COMPANY: EUGENE W. WARD and DOROTHY WARD; CLIFTON BUILDING SUPPLIES; and T. L. HERBERT AND SONS, INC.	)	
Defendants	)	

FINAL ORDER

This cause came to be heard in open Court on November 3, 1976, before the Honorable Ralph H. Kelley, Bankruptcy Judge, United States District Court for the Eastern District of Tennessee, Southern Division, upon the complaint of plaintiff, Kyle R. Weems, Trustee for Hamilton Mortgage Corporation, the answer of defendants, Federal Deposit Insurance Corporation and Eugene W. Ward and Dorothy Ward, and the testimony of witnesses. It appeared to the Court that all parties were properly before the Court, requisite summons and notice of trial having been sent by certified mail as required by law. Defendants, Webb Homebuilders, Inc., Clifton Building Suppliers, and T. L. Herbert and Sons, Inc., failed to answer or to appear within the time prescribed by the summons issued October 21, 1976.

STATE OF TENNESSEE
COUNTY OF DAVIDSON
THE ACTUAL CONSIDERATION OR TRUE VALUE, WHICHEVER IS GREATER, FOR THIS TRANSFER IS $ ____

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, THIS THE 15th DAY OF Nov 1976

Deputy Register

ATTEST: A true and correct copy.
This 12th day of Nov 1976
Ralph H. Kelley, Bankruptcy Judge
By: _____
Chief Clerk

FILED
NOV 12 1976
RALPH H. KELLEY
Bankruptcy Judge
U.S. District Court
Chattanooga, Tenn.

From the pleadings and testimony of witnesses, including Mrs. Alice Howington, Mr. Homer Ayers and Mr. William Manier, the Court found that the grounds set forth in the complaint were well taken. It appeared to the Court that the debtor, Hamilton Mortgage Corporation, is the owner of certain real property located in or around Nashville, Tennessee, commonly known as Lots 51, 53 and 54, Grizzard Manor, Section 3, by virtue of a certain Substitute Trustee's Deed conveying said real property from William E. Weems, II, Trustee to Hamilton Mortgage Corporation dated February 20, 1975, and recorded on February 24, 1975, in Book 4891, Page 832, Register's Office of Davidson County, Tennessee. The defendant, Federal Deposit Insurance Corporation, as successor to Hamilton National Bank, Chattanooga, claims an undivided 99/100 interest in said real property by virtue of a certain Quitclaim Deed conveying said interest from Hamilton Mortgage Corporation to Hamilton National Bank, Chattanooga, dated October 24, 1975, and recorded October 31, 1975, at Book 987, Page 27, Register's Office of Davidson County, Tennessee, which undivided interest is now the subject of certain disputes and controversies in litigation pending before this Court. The said real property is likewise the subject of a contingent claim filed by Webb Homebuilders to which the Trustee has filed objection and counterclaim. Certain liens and judgments appear of record against the said real property, some of which may or may not have been satisfied and may or may not have priority over the claims of the Trustee and F.D.I.C.

It further appeared to the Court that there is a partially constructed single family dwelling located on each lot here in question; that such dwellings are subject to continuing deterioration due to exposure to the elements and lack of security affording the opportunity for vandalism; that deterioration due to weathering and vandalism has already occurred and is likely to continue to occur in the future; that the fair market value of the said real estate is declining and is likely to continue to decline; that in the absence of sale in the immediate future

said dwellings are likely to become worthless; and that the sale of said real property free and clear of all claims, liens, security interests, judgments and encumbrances would be beneficial not only to the estate of the debtor, but also to all such claimants, lienors and encumbrancers thereon.

An offer to purchase Lots 51, 53 and 54, Grizzard Manor, Section 3, was made and presented in open Court by Mr. Homer Ayers, attorney and agent for Goodlettsville Development Company, Inc., in the total amount of Forty Five Thousand Four Hundred Eighty-five ($45,485.00) Dollars, including Twelve Thousand Twenty-five ($12,025.00) Dollars for Lot 51, Nineteen Thousand Three Hundred Seventy-four ($19,374.00) Dollars for Lot 53 and Fourteen Thousand Eighty-six ($14,086.00) Dollars for Lot 54. From the appraisal and testimony concerning the same, as well as a recent return visit to the subject real property by appraiser William Manier, a duly qualified Senior Residential Appraiser, it appeared that the offer was equal to or greater than the fair market value of the property and the said offer should be accepted and approved by the Court, and that all claims, liens, security interests, judgments and encumbrances outstanding against the property should be transferred and attach to the proceeds of sale which should be deposited in a special escrow account at a duly authorized depository subject to withdrawl only upon order of this Court.

No objection was raised by any party before the Court and the F.D.I.C., through its attorney, specifically concurred with the Trustee in the relief sought. Accordingly, it is hereby

ORDERED that judgment enter for the plaintiff, Kyle R. Weems, Trustee of Hamilton Mortgage Corporation; it is further

ORDERED that the offer to purchase submitted on behalf of Goodlettsville Development Company, Inc., in the total amount of Forty Five Thousand Four Hundred Eighty-five ($45,485.00) Dollars for the purchase of Lot 51, Lot 53 and Lot 54, Grizzard Manor, Section 3, be and the same hereby is accepted and approved; it is further

ORDERED that all right, title and interest in and to Lot 51, Lot 53 and Lot 54, Grizzard Manor, Section 3, and more particularly described as follows, shall be and the same hereby are divested out of the plaintiff, Kyle R. Weems, Trustee of Hamilton Mortgage Corporation, and defendant, Federal Deposit Insurance Corporation, and vested solely in Goodlettsville Development Company, Inc., in fee simple. This Final Order may be recorded in the Register's Office of Davidson County, Tennessee, and the same, when recorded shall operate as an instrument of record showing conveyance of all right, title and interest of plaintiff, Kyle R. Weems, Trustee of Hamilton Mortgage Corporation, and defendant, Federal Deposit Insurance Corporation, in said real estate to Goodlettsville Development Company, Inc., as its own absolutely. Said real estate is more particularly described as follows:

> LAND in Davidson County, Tennessee, being Lots Nos. 51, 53 and 54, Grizzard Manor, Section 3, of record in Plat Book 4675, page 40, Register's Office for said County.
>
> BEING part of the same property conveyed to Hamilton Mortgage Corporation by Substitute Trustee's Deed of Record in Book 4891, page 632, Register's Office for said County.
>
> BEING the same property conveyed to Hamilton National Bank of Chattanooga by Quitlclaim Deed of record in Book 4987, page 27, Register's Office for said County.

It is further

ORDERED that all claims in and to said Lots 51, 53 and 54, Grizzard Manor, Section 3, asserted on behalf of defendant, Webb Homebuilders, Inc., be and the same hereby are extinguished and that all such claims are transferred to and constitute claims against the proceeds of sale deposited in a certain bank account hereinafter set forth. It is further

ORDERED that all liens, security interests, judgments and encumbrances whether filed of record or not, against Lots 51, 53 and 54, Grizzard Manor, Section 3, be and they hereby are released and extinguished forever, including but not limited to:

Lot 51 is subject to:

1) Lien of Clark Hardward Co., 1414 Fourth Avenue, South, Nashville, Tennessee 37211, in the amount of $643.65, dated August 14, 1974, recorded in Book 4843, page 139, re-recorded in Book 4843, page 431.

2) Judgment entered January 15, 1975, recorded March 25, 1975, in Book 4898, page 614, in favor of Eugene W. and Dorothy Ward, Cordell Hull Building, Nashville, Tennessee (Telephone: 741-3191) against Webb Homebuilders, Inc. for $3,853.06.

3) General Sessions judgment dated January 9, 1975, recorded May 23, 1975, in Book 4915, page 266, in favor of Clifton Building Supplies, 847 Springfield Highway, Goodlettsville, Tennessee, against Webb Homebuilders, Inc., in the amount of $261.61.

4) General Sessions judgment in favor of Clifton Building Supplies (same as above) in the amount of $74.28, recorded May 23, 1975, in Book 4915, page 286.

5) General Sessions judgment in favor of Clifton Building Supplies (same as above) in the amount of $232.58, recorded May 23, 1975, in Book 4915, page 270.

6) General Sessions judgment in favor of Clifton Building Supplies (same as above) in the amount of $430.50, recorded May 23, 1975, in Book 4915, page 272.

7) General Sessions judgment in favor of Clifton Building Supplies (same as above) in the amount of $205.74, recorded May 23, 1975, in Book 4915, page 274.

8) General Sessions judgment in favor of Clifton Building Supplies (same as above) in the amount of $553.09, recorded May 23, 1975, in Book 4955, page 276.

9) Circuit Court judgment in favor of Clifton Building Supplies (same as above) in the amount of $4,296.72, dated April 17, 1975, recorded May 23, 1975, in Book 4915, page 278.

Lot 53 is subject to:

1) Lien in favor of T. L. Herbert & Sons, Inc., 1136 Second Avenue, North, Nashville, Tennessee, in the amount of $839.07, dated October 28, 1974, recorded November 4, 1974, in Book 4865, page 452.

2) Lien in favor of Clark Hardware Company in the amount of $684.60, recorded August 14, 1974, in Book 4843, page 142, and re-recorded in Book 4843, page 434.

Those entries listed 2 through 9 under Lot 51 are also of record as of Lots 53 and 54, the same being recorded against the property of Webb Homebuilders, Inc., without designation as to specific properties.

It is further

ORDERED that all liens, judgments and encumbrances against Lots 51, 53 and 54, Grizzard Mainor, as set forth hereinabove be and the same hereby are transferred to and constitute potential claims, if and when asserted before this Court in a timely manner, against a certain bank account hereinafter set forth. It is further

ORDERED that plaintiff, Kyle R. Weems, be and he hereby is authorized and directed to deposit the proceeds of sale in the amount of Forty Five Thousand Four Hundred Eighty-five ($45,485.00) Dollars in that 5% passbook savings account heretofore established for such purpose at the Pioneer Bank of Chattanooga, Tennessee, an authorized depository for this Court, Account No. 18-43755-8, styled "Kyle R. Weems, Trustee, Hamilton Mortgage Corporation, Special Escrow Account for BK1-76-264, E-48a." It is further

ORDERED that the proceeds of sale deposited as set forth hereinabove shall be withdrawn from said savings account only upon subsequent order of this Court.

ENTER.

Logan McReynolds
BANKRUPTCY JUDGE

FELIX J. MILLSAPS, REGISTER
DAVIDSON COUNTY, TENN.
NOV 18 3 08 PM '76
IDENTIF. REFERENCE
D 77708

NOV18% CONV 45,485.00
NOV18% S'TAX B* 118.30
NOV18% STATE B* .50
NOV18% MISC B* 12.00 * 130.80