BOOK 5095 PAGE 160 11-5-76

141A/413

PENN STATE OIL CO., INC.	§	
	§	NO. B-15053
VS	§	
	§	IN THE FIRST CIRCUIT COURT OF
	§	
	§	DAVIDSON COUNTY, TENNESSEE
E. C. BLANKENSHIP ET AL	§	

O R D E R

This cause was heard before the Honorable J. William Rutherford, Judge, on this November 5, 1976. The plaintiff asked the Court to enter a default judgment against the defendant, William Churchwell. It appearing to the Court that said defendant was personally served with process and failed to plead within the time required by the Rules of Civil Procedure and also failed to plead within the time authorized by an Order of this Court and that he has never pleaded, IT IS ACCORDINGLY ORDERED that said motion be granted, that the averments of the Complaint be taken as confessed by the said Churchwell and that the cause proceed ex parte as to him.

It was then made to appear to the Court that all parties to this cause except the said Churchwell had compromised and settled all issues and matters in controversy upon the following terms:

1. The defendant, E. C. Blankenship,agrees to withdraw his motion for summary judgment in which he asserts as defense champerty. The parties agree that the plaintiff may introduce such evidence as it desires and by Order of this Court the Complaint shall be sustained and all right, title and interest of the parties except Penn State Oil Co., Inc., in the land described in the Complaint shall be divested out of them and vested in the said plaintiff.

2. For a good, valuable and sufficient consideration paid to E. C. Blankenship by Pioneer National Title Insurance Company the defendant, E. C. Blankenship and his wife, Janice L. Blankenship, have executed, acknowledged and recorded a quit claim deed conveying to Penn State Oil Co., Inc., all their right, title and interest in and to the tract of land described in the Complaint.

3. For a good, valuable and sufficient consideration paid to Jack J. Cohen, Bessie D. Cohen and Leon Gilbert by Pioneer National Title Insurance Company and by Penn State Oil Co., Inc., the said Jack J. Cohen, Bessie D. Cohen and Leon Gilbert have executed and

delivered a release of the lien of their installment deed which is of record in Book 4774, page 867, Register's Office for Davidson County, Tennessee, have marked the note evidencing the indebtedness secured by said lien as satisfied and have cancelled said note.

The cause was then further heard upon the entire record in the cause and upon testimony of the plaintiff and the exhibits filed, which were made a part of the proof.

The Court finds that the plaintiff, Penn State Oil Co., Inc., and the defendant, E. C. Blankenship, both deraign title from Evelyn Carlisle to whom the property was conveyed "to her sole and separate use free from the marital or other rights of her present or any future husband" by deed from her step-father, Gracy Towns, of record in Book 3952, page 802, of the Register's Office for Davidson County. Evelyn Carlisle, whose maiden name was Reid, died intestate on December 26, 1970. Gracy Towns died April 9, 1971. Evelyn Carlisle was an only child, her parents predeceased her, she at no time had any children. Her husband, Ira E. Carlisle, survived her and her sole heirs at law were Dora Louise Juckett Borland, the daughter of her (Evelyn Carlisle's) mother's brother, Admiral Dewey Juckett, George Robert Juckett, a brother of Evelyn Carlisle's mother. George Robert Juckett died intestate on November 28, 1971, in the State of Florida survived by his wife, Frances Juckett, who took a dower interest in his real property and leaving his niece, Dora Louise Juckett Borland, as his sole heir at law. The Court therefore finds that the deed from the said Dora Louise Juckett Borland and Mrs. George R. (Frances) Juckett dated April 25, 1974, and recorded in Book 4814, page 154, of the Register's Office for Davidson County, Tennessee, conveyed to Penn State Oil Co., Inc., a good, indefeasible fee simple title to the property therein described and as described in the Complaint in this cause.

The Court further finds that the defendant, E. C. Blankenship, claimed title under an Affidavit of Heirship executed by Ira E. Carlisle on January 18, 1971, of record in Book 4474, page 312, said Register's Office; deed from Ira E. Carlisle to Jack J. Cohen and wife, Bessie D. Cohen and to Leon Gilbert dated June 13, 1973, of record in Book 4718, page 975, said Register's Office; and by installment deed from Jack J.Cohen, Bessie D.Cohen and Leon Gilbert to E. C.

Blankenship dated December 7, 1973, of record in Book 4774, page 867, of said Register's Office. If in fact the said Ira E. Carlisle did have any right, title and interest of any kind or character whatsoever in said property, the same was conveyed by him to the defendants Cohen and Gilbert and was conveyed by the defendants Cohen and Gilbert to the defendant, E. C. Blankenship, and has been conveyed by the said E. C. Blankenship and wife, Janice L. Blankenship, to the plaintiff, Penn State Oil Co., Inc., by quit claim deed.

IT IS ACCORDINGLY ORDERED, ADJUDGED AND DECREED:

1. That the motion of E. C. Blankenship for summary judgment, in which motion the defense of champerty was asserted, be and hereby is withdrawn; that the Second Count of the Complaint which was filed in the names of Dora Louise Juckett Borland and Mrs. George R. (Frances) Juckett as additional parties plaintiff which was in reality filed for the use and benefit of the plaintiff, Penn State Oil Co., Inc be deemed and treated as the Second Count of the Complaint of Penn State Oil Co., Inc.; that plaintiff's suit be and hereby is sustained, all the right, title and interest of the parties to this suit except Penn State Oil Co., Inc.,in the land described in the Complaint and hereinafter described be divested out of them and each of them and be vested in the said plaintiff, Penn State Oil Co., Inc., as an indefeasible inheritance in fee simple forever.

2. That the plaintiff, Penn State Oil Co., Inc., owns in fee simple the following described property:

> "A tract or parcel of land located in Davidson County, Tennessee, more particularly described as follows:
>
> "Being the westerly one-half of Lot No. 21 on the Map of McGavock's Homestead Addition, as of record in Book 57, page 9, Register's Office for said County.
>
> "Said part of said lot fronts 35.8 feet on the north side of Monroe Street and runs back between parallel lines along the west margin of an alley, 160 feet to an alley in the rear.
>
> "Being the same property conveyed to Evelyn Carlisle, now deceased, by deed from Gracy Towns, dated March 18, 1963, and recorded in Book 3952, pages 802 and 803, of the Register's Office for Davidson County, Tennessee.
>
> "This is the same land as was conveyed to Penn State Oil Co., Inc., by deed from Dora Louise Juckett Borland and Mrs. George R. Juckett (Frances Juckett) dated April 25, 1974, and recorded on May 10, 1974, in Book 4814 at page 154 of the Register's Office for Davidson

County, Tennessee. Said tract of land is designated on the official property map of Davidson County, Tennessee, as Map 82-9, Parcel 63, IW 345. It is also known as number 512 Monroe Street, Nashville, Tennessee."

3. That the title of plaintiff, Penn State Oil Co., Inc., is free and clear of all claims, liens and encumbrances of all the parties to this suit except any lien that may exist on said property to secure the payment by Penn State Oil Co., Inc., of any balance owing on the note executed by it to Dora Louise Juckett Borland and George R. Juckett, described in said installment deed of record in Book 4814, page 154, said Register's Office.

4. That the plaintiff, Penn State Oil Co., Inc., therefore recover from the defendants the property hereinabove described and that a writ of possession will issue if necessary.

5. That Leon Gilbert, Jack J. Cohen and Bessie D. Cohen be and hereby are released from any and all liability and claims on the part of E. C. Blankenship and wife, Janice L. Blankenship, arising out of the installment deed which is of record in Book 4774, page 867, said Register's Office, the said Blankenship having agreed to release the said Gilbert and Cohen's.

6. That the cross-claim of E. C. Blankenship vs. Jack J. Cohen, Bessie D. Cohen, Leon Gilbert and John J. Nanni, be and hereby is dismissed.

7. That the cross-claim of Jack J. Cohen, Bessie D. Cohen, Leon Gilbert and John J. Nanni, Trustee, vs. Pioneer Title Company be and hereby is dismissed.

William Kelly
Judge 11-5-76

Approved and consented to:

Claude Callicott
Claude Callicott
Attorney for Plaintiff

J. G. Lackey, Jr.
J. G. Lackey, Jr.
Attorney for E. C. Blankenship
and Pioneer National Title Insurance Company

Harris Gilbert (by mm)
Harris Gilbert
Attorney for Jack J. Cohen, Bessie D. Cohen
and Leon Gilbert

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IDENTIF. REFERENCE

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FELIX [illegible] REGISTER
DAVIDSON COUNTY, TENN.

DEC-9% MISC B* 10.00 * 10.00

Docket No. B-15053 141A/413

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* true copy ~~correct transcript~~ *of the record and proceedings had in said Court in the case heretofore prosecuted and determined therein, between* Penn State Oil Co., Inc. *Plaintiff, and* E. C. Blankenship, et al *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* 8th *day of* December *in the year one thousand nine hundred and* seventy-six *and in the* 201st *year of American Independence.*

GEORGE L. ROOKER, *Clerk.*

By Patty Hughes, *D. C.*

Form #GR-117