RECEIVED 1-26-82
DAVIDSON COUNTY,
CHANCERY COURT

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

PART I BOOK 5870 PAGE 224

THE STATE OF TENNESSEE IN ITS OWN BEHALF AND FOR THE USE AND BENEFIT OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,

Plaintiff,

VS.

DELINQUENT TAXPAYERS AS SHOWN ON THE 1969 REAL PROPERTY TAX RECORDS OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,

LEWIS GAINES, TRUSTEE,

Control Number
1097-0200

Defendant.

ORDER FILED & ENTERED 3-3-82
MINUTE BOOK 22 PAGE 28

File-Tax Civil Action
Number A-47

USTC

IDENTIF. REFERENCE
G 8 6 1 1 9

APR 6 2 35 PM '82
FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TENN.

04/06 12.0 642

ORDER

This case came on to be heard on January 22, 1982, before the Honorable Irvin H. Kilcrease, Jr., Chancellor, upon motion of intervening petitioner, Charles A. Wheeler, Jr., Trustee, for summary judgment on the ground that there is no genuine issue as to any material fact, upon argument of counsel for intervening petitioner, plaintiff, and respondents James T. Conrad and Harold Duncan, at the conclusion of which the Court took the matter under advisement, and subsequently on February 23, 1982, issued a memorandum opinion which shall be filed with and become a part of the record in this cause.

From all of which the Court finds that at all times relevant to the facts in question, title to the real property that is the subject of the intervening petition was vested in Lewis Gaines, Trustee, and on October 8, 1980, was transferred by him to Charles A. Wheeler, Jr., Trustee, the intervening petitioner; that the summons and complaint that was filed in March of 1971 seeking to sell said property for delinquent taxes for the year 1979 was served upon Mrs. Lester, secretary

to Lewis Gaines, Trustee; that no answer was filed in response to the complaint and a default judgment was entered; that the property was sold under order of this Court on September 15, 1977, to the highest bidders, they being James T. Conrad and Harold Duncan; that a final decree confirming the sale was entered on October 7, 1977, and that by deed dated December 10, 1979, James T. Conrad and Harold Duncan conveyed said property to Earlene Bush, who is in default in this action for failure to answer the intervening petition herein; that it is uncontradicted that personal service of process was never made upon Lewis Gaines, Trustee, and there is no evidence of record indicating any attempt by him to avoid service of the summons, nor evidence that the plaintiff sought service of process by publication.

The Court therefore concludes that it lacked jurisdiction to order the sale of said property due to the lack of personal service of process of the summons on Lewis Gaines, Trustee, and that therefore the sale to James To Conrad and Harold Duncan is void and likewise the conveyance from them to Earlene Bush i void.

There being no genuine issue as to any material fact, the intervening petitioner, Charles A. Wheeler, Jr., Trustee, is entitled to a judgment as a matter of law, and it is accordingly ordered that said intervening petitioner's motion for summary judgment is hereby granted.

IT IS FURTHER ORDERED that the final decree confirming sale to James T. Conrad and Harold Duncan entered on October 7, 1977, in Tax Minute Book 12, Page 17, of the Davidson County Clerk and Masters Office, and recorded October 9, 1979, in Book 5511, Page 123, Registers Office for Davidson County, Tennessee, is void and of no force and effect, and likewise the deed to Earlene Bush from James T. Conrad and wife Marjorie Conrad, and Harold Duncan dated December 10, 1979, and recorded in Book 5541, Pag 526, said Registers Office, is void and of no force and effect.

IT IS FURTHER ORDERED that the amount tendered to the Clerk and Master by intervening petitioner of Two Hundred Fifty-Five and 69/100ths ($255.69) Dollars shall be in full satisfaction of real property taxes owing to plaintiff for the years 1969, 1976 and 1980 against said

property which is more particularly described as being Reserved Tract "A" as shown on the plan of Parkwood Estates, section I of record in Book 2900, Page 119, Registers Office of Davidson County, Tennessee, the same being Tax Field Book Number 13DA-25760 and Parcel 178 on Metropolitan Tax Map Number 60-2.

The State of Tennessee, etc., plaintiff, shall pay the costs of this cause.

Chancellor

APPROVED FOR ENTRY:

DENNEY, LACKEY & CHERNAU
218 Third Avenue
Nashville, Tennessee 37201

BY: _____
Thomas T. Pennington

CERTIFICATE OF SERVICE

I hereby certify that a copy of this order has been furnished to Mr. James R. McKinney, attorney for James T. Conrad and Harold T. Duncan, at 1303 Gallatin Road, North, Madison, Tennessee 37115 and to Ms. Sara Sedgwick, attorney for Metro Government, 204 Metro Courthouse, Nashville, Tennessee 37201, by placing same in the U. S. Mail, postage prepaid on this 25 day of February, 1982.

_____
Thomas T. Pennington

CERTIFICATE OF CLERK AND MASTER

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

I, CHRISTINA NORRIS, 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 3rd day of March, 19 82, in Tax Minute Book 22, Page 28, in the cause wherein the State of Tennessee, etc., is the Plaintiff, and Delinquent Taxpayers for 1969, etc. (Lewis Gaines, Trustee), are the Defendants, Rule Number A-47 1097-0200, 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 Court House at Nashville, Tennessee, this the 6th day of April, 19 82, and the 206th year of American Independence.

CHRISTINA NORRIS, CLERK AND MASTER

Jo Kemp

DEPUTY CLERK AND MASTER