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DAVIDSON COUNTY
CHANCERY COURT

Map 105-9
Par 435

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED & ENTERED 2-1-83
BOOK 123 PAGE 525

EMMA McDONALD,

Plaintiff,

vs.

MARTHA E. McDONALD,

Defendant.

No. 82-525-I (II)

I hereby certify that this is a true copy of original instrument filed in my office.
This 3 day of March 1983
CHRISTINA NORRIS Clerk & Master
By Doris Weiss
Deputy Clerk

ORDER

This cause came on to be heard this 25th day of January, 1983, before the Honorable C. Allen High, Chancellor, by interchange, upon the Complaint heretofore filed by plaintiff, personal service of process on the defendant, Answer and Counterclaim filed by the defendant, Answer to the Counterclaim, and upon the testimony in open court by the parties, their witnesses, statement of counsel, and the entire record.

Based on the foregoing, the findings of fact by the court and conclusions of law are as follows:

This dispute involves a tract of real estate and house located at 824 Benton Avenue, Nashville, Tennessee. The evidence shows that the legal title, as reflected by a deed, is in the name of Robert A. McDonald, who is deceased, and his wife, the defendant, Martha E. McDonald. The property was purchased in 1962 from Lillie B. Daugherty by a down payment and installment deed. The contract of sale was between Lillie Daugherty and Robert A. McDonald, and the contract of sale recites the consideration as being Five Thousand, Five Hundred Dollars ($5,500), One Thousand, Five Hundred Dollars ($1,500) cash, Four Thousand Dollars ($4,000) to be paid to Mrs. Daugherty at Fifty Dollars ($50) per month at six percent (6%). The transaction was closed, and the deed was drawn to include the wife of Robert A. McDonald as purchaser, Martha E. McDonald. There was an installment deed note in the amount of Four Thousand Dollars ($4,000) that was dated the same date, February 12, 1962, and that note was left with a note teller at First American National Bank, the Eighth Avenue Branch of that bank, so the payments could be made to the teller and deposited in the account of Lillie B. Daugherty.

The plaintiff is seventy-eight (78) years of age, is a widow, second grade education, is unskilled in mathematics, and has a limited ability to read. She has been a

widow since 1944. Before she moved to the Benton Avenue property she lived on Ninth Avenue South and her son, Robert, and his wife lived with her and her family. When she moved from Ninth Avenue, her son, Robert, located this house on Benton Avenue that is in dispute. The plaintiff made the required down payment, one-half of which, the proof shows, was loaned to her by her son, Robert.

The evidence shows that the plaintiff made the installment payments at First American National Bank, Eighth Avenue Office, from her own funds and that she also made payments from her own funds to her son, Robert, in at least a sufficient amount to repay the borrowed down payment amount.

The proof shows that the plaintiff has been in continuous possession of the property since 1962 when the property was purchased. She has occupied it as her home. She has treated it as her own property, has arranged to have improvements and additions made to the property including adding rooms and a bath. The plaintiff paid for the insurance, property taxes, improvements and the additions from her own funds.

The legal conclusion from these findings is that this property was purchased by the plaintiff and title was taken in the name of other persons, but the plaintiff paid the purchase price, and that these facts constitute a resulting trust and title should be placed in the name of the plaintiff.

It is, therefore, ORDERED by the court that fee simple title to the following described real property is hereby divested out of the defendant, Martha E. McDonald, and vested in the plaintiff, Emma McDonald, her heirs and assigns:

> Being part of Lot No. 56 on the Plan of Waverly Place, as of record in Book 57, page 95, Register's Office for said County, described as follows:
>
> BEGINNING at the northwest intersection of Harewood Avenue or Benton Avenue and the west margin of the first alley east of Elliott Avenue; thence with the margin of said alley, northwesterly 97 feet to a point; thence southwesterly 59 feet to an iron pin; thence southeasterly 97 feet to an iron pin in the margin of Harewood or Benton Avenue, thence with the margin of the same, northeasterly 59 feet to the point of beginning.
>
> Being the same property conveyed to Robert A. McDonald and wife, Martha E. McDonald, by deed from Lillie B. Daugherty of record in Book 3343, page 85, said Register's Office.

It is further ORDERED by the court that the plaintiff's claim for damages for overpayment of the loan is denied and dismissed.

It is further ORDERED that the defendant's counterclaim is denied and dismissed.

The costs of this cause are charged to the defendant.

ENTERED this _____ day of January, 1983.

CHANCELLOR

APPROVED FOR ENTRY:

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H 36603

IDENTIF. REFERENCE

MAR 16 4 05 PM '83

DAVIDSON COUNTY, TN