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DAV. CO. CHANCERY COURT

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

BOOK 7666 PAGE 120

JOHN T. DUNCAN, JR. and wife, BERNICE A. DUNCAN,

Plaintiffs,

v.

NATIONAL MORTGAGE COMPANY,

Defendant.

No. 88-2205-III

Costs paid
ORDER FILED & ENTERED 9-29-88
MINUTE BOOK 48 PAGE 423

AGREED ORDER

Based upon agreement of counsel and the pleadings in this case, it appears to the Court that the Plaintiffs own and reside on the premises located at 116 Hamblen Avenue, Old Hickory, Tennessee 37138. The Defendant held a first mortgage on this property in the original principal amount of $27,400, of record in Book 5683, page 358, Register's Office, Davidson County, Tennessee. In April, 1988, Plaintiffs made certain payments on said first mortgage indebtedness but failed to place their account number on said remittance(s). Defendant inadvertently applied these payments to another account in the name of John Duncan. As a result of this mutual mistake, Plaintiff's account with Defendant appeared to be delinquent and as a result thereof, the first mortgage held by the Defendant was foreclosed on June 3, 1988. The Defendant was the only bidder at the foreclosure sale and became the record title owner of subject real property by virtue of a Trustee's Deed recorded June 3, 1988, of record in Book 7562, page 46, said Register's Office. It is undisputed that the foreclosure sale was the result of the Defendant's mistaken understanding that the Plaintiffs were delinquent in their payments on said first mortgage indebtedness, whereas in fact Plaintiffs had paid the monthly installments due and owing on said first mortgage indebtedness, which payments had inadvertently been applied to the wrong account for the reasons hereinabove stated.

NOW THEREFORE, upon agreement of counsel, it is hereby ORDERED that the foreclosure sale held by the Defendant, National Mortgage Company, on June 3, 1988, with respect to that certain Deed of Trust of record in Book 5683, page 358, Register's Office, Davidson County, Tennessee, was the result of mutual mistake, and such foreclosure sale is hereby set aside and for naught held.

2593 09/30 0101 03CHECK 9.00

7.24 I. I.

IDENTIFICATION
SEP 30 11 46 AM '88
FELIX P. WILSON, REGISTER
DAVIDSON COUNTY, TN

It is further ORDERED that the Trustee's Deed dated June 3, 1988, from D.W. McMackin, Substitute Trustee, to National Mortgage Company, of record in Book 7562, page 46, Register's Office, Davidson County, Tennessee, conveying title to subject premises to National Mortgage Company is likewise set aside and for naught held. Said Trustee's Deed shall be of no force or effect whatsoever. All right, title and interest in and to the premises located at 116 Hamblen Avenue, Old Hickory, TN. more particularly described below, is hereby divested out of National Mortgage Company and vested in John T. Duncan, Jr. and wife, Bernice A. Duncan.

It is finally ORDERED that the Deed of Trust dated November 24, 1980, of record in Book 5683, page 358, Register's Office, Davidson County, Tennessee, executed by John T. Duncan, Jr. and wife, Bernice A. Duncan, to Delta Title Company, Trustee, be and the same is hereby reinstated in full, the same as though the above referenced foreclosure sale had never occurred and the same as though the Trustee's Deed of record in Book 7562, page 46, said Register's Office, had never been recorded. The rights and duties of all parties under said Deed of Trust on the following described real property shall be the same as they were prior to the above referenced foreclosure sale and all terms, provisions and conditions of said Deed of Trust are hereby reinstated in all respects and shall remain and continue in full force and effect:

LAND in Davidson County, Tennessee, being Lot No. 30, Block "C" on the plan of Map No. 3 of Life & Casualty Insurance Co., property at Old Hickory, of record in Book 974, page 11, Register's Office for said County.

SAID Lot No. 30 fronts 60.0 feet on the southwesterly margin of Hamblen Avenue and extends back between parallel lines 175.0 feet to a dead line.

Being the same property conveyed to John T. Duncan, Jr. and wife, Bernice A. Duncan, by deed from Moon Landrieu, Secretary of Housing and Urban Development, of record in Book 5683, page 355, Register's Office, Davidson County, Tennessee.

The costs of this cause are assessed against the Defendant for which execution may issue if required.

I hereby certify that this is a true copy of original instrument filed in my office.

This 30th day of September 1988

CHRISTINA NORRIS Clerk & Master

By Deana Lovell D.C.

Chancellor

Approved for entry:

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