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DAV. CO. CHANCERY COURT

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

BOOK 7939 PAGE 682

FANNIE A. JARMAN )
)
vs. ) NO. 86-1269-1(III)
)
FRED M. WHITLEY, et al. )

ORDER FILED & ENTERED 11-1-88
MINUTE BOOK 49 PAGE 60

JUDGMENT

This cause came on to be heard on the 17th day of October, 1988, before the Honorable Robert S. Brandt, Chancellor, upon the pleadings, the evidence, argument of counsel, and the entire record. The issues in this case, made up by the pleadings, are as follows:

1. Whether the quitclaim deed from Fannie A. Jarman to Fred M. Whitley dated January 22, 1986, recorded in Book 6767, page 372, Register's Office for Davidson County, Tennessee, conveying property commonly known as 304 33rd Avenue, North, Nashville, Tennessee, is a forgery. The plaintiff contends that it is and the defendants contend that it is not.

2. Or in the alternative, whether said deed was obtained from Jarman by the fraud and undue influence of Whitley. Thc plaintiff contends that it was and the defendants contend that it was not.

3. Whether a deed of trust from Fred M. Whitley, et ux to Harl Rose, Trustee, dated February 20, 1986, and recorded in Book 6786, page 815, Register's Office for Davidson County, Tennessee, given to secure an indebtedness to Associates Financial Services Company of Tennessee, Inc., in the original sum of $37,080.00, is a valid and existing encumbrance. The plaintiff contends that it is not and the defendant, Associates Financial Services Company of Tennessee, Inc., contends that it is.

4. Whether Hobert Martin, a Notary Public, and his insurer, National Grange Mutual Insurance Company, are

liable in damages to the plaintiff for notarizing said quitclaim deed without Jarman acknowledging the same before Martin. The plaintiff contends that they are and said defendants contend that they are not.

The Court finds on all the issues joined against the plaintiff and in favor of the defendants.

The Court further finds that when said quitclaim deed from Jarman to Whitley was executed and delivered the parties intended that Jarman enjoy the real estate for her life with the remainder interest in said real estate vested in Whitley. The Court, under the equities of this case, will enforce the agreement and understanding of the parties as hereinafter ordered.

The Court further finds that Whitley obtained the loan from Associates Financial Services Company of Tennessee, Inc. He encumbered the real estate herein in order to do so. He should be required to pay said indebtedness as it accrues as hereinafter ordered. Associates Financial Services Company of Tennessee, Inc. should be prohibited from foreclosing on said real estate during the lifetime of the plaintiff, Fannie A. Jarman, without first having this Court determine that foreclosure is justified.

Said real estate is legally described as follows:

> Land in Davidson County, Tennessee, being Lot No. 61 on the Map of Hortense Place, as of record in Book 161, page 167, Register's Office for said County.
>
> Said Lot No. 61 fronts 50 feet on the easterly side of 33rd Avenue North, formerly Baron Street, and runs back between parallel lines 140 feet to an alley.
>
> Being the same property conveyed to Fred M. Whitley by deed from Fannie A. Jarman, a single person, of record in Book 6767, page 372, Register's Office for Davidson County, Tennessee.

All of the above is hereby ORDERED AND ADJUDGED by the Court and in addition:

1. This cause is hereby dismissed as to Hobert Martin and National Grange Mutual Insurance Company.

2. Pursuant to Rule 70, Tennessee Rules of Civil Procedure, the Court hereby divests a life estate in said real estate out of

Fred M. Whitley and vests the same in favor of plaintiff, Fannie A. Jarman. It is the intent of the Court to create a life estate in said real estate in Fannie A. Jarman and a remainder in Fred M. Whitley. (This divesting and vesting does not affect the status of a trust deed from Whitley to Rose, Trustee, of record in Book 6786, page 815, Register's Office for Davidson County, Tennessee, as a first encumbrance on the real estate herein.)

3. It is the order of the Court that Fred M. Whitley pay the note and indebtedness herein to Associates Financial Services Company of Tennessee, Inc. or its assignee, as said indebtedness accrues. Associates Financial Services Company of Tennessee, Inc. shall not foreclose on the indebtedness and real estate herein during the lifetime of Fannie A. Jarman without first having this Court determine that foreclosure is justified. Said company is granted leave to make application to the Court to modify this injunction at any future time as it sees fit.

The costs of this cause are assessed against the defendant Whitley for which execution may issue if necessary.

ENTERED, this the _____ day of _____, 1988.

CHANCELLOR

SUBMITTED BY:

Barbara A. Rose

Barbara A. Rose
BASS, BERRY & SIMS
2700 First American Center
Nashville, Tennessee 37238
(615) 742-6200
TN Sup. Ct. Reg. No. 12034

I hereby certify that this is a true copy of original instrument filed in my office.
This 18 day of Sept 1987
CHRISTINA NORRIS Clerk & Master
By _____ Deputy Clerk

RUSH

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IDENTIFICATION REFERENCE

SEP 18 9 16 AM '88

FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN

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