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IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

BOOK 8232 PAGE 943

RUTH HURT RILEY)
)
Plaintiff)
)
v.) No. 89-697-II
AF
)
EMILY JANE HURT BRUMIT,)
HERMAN EDWARD BRUMIT, and)
THIRD NATIONAL BANK IN NASHVILLE) ORDER FILED & ENTERED
)
Defendants.) OCT 31 1990

MINUTE BOOK 161 PAGE 594

ORDER

This case came to be heard on Friday, October 19, 1990, before the Honorable C. Allen High, Chancellor of Division II of the Chancery Court for Davidson County, Tennessee upon Third National Bank in Nashville's ("TNB") Motion to Intervene and Motion to Amend Judgment or In the Alternative For New Trial concerning TNB's status as an indispensible party in this matter.

On March 22, 1989, the plaintiff filed a Complaint To Set Aside Deed and a jury trial was held in this matter on August 6, 1990 through August 8, 1990. On August 20, 1990 the Court in those proceedings entered judgment ordering that two deeds, one dated July 9, 1976, of record in Book 5196, page 481, Register's Office for Davidson County, Tennessee, and the other dated October 13, 1981, of record in Book 5806, page 749, said Register's Office (collectively, the "Deeds") conveying property located at 830 Russleo Drive (the "Property"), be set aside based on undue influence and lack of capacity. TNB was not made a party to the complaint, the jury trial or the final judgment, nor did TNB receive notice of those proceedings.

The Property at issue in this case is described in the Deeds and in a Deed of Trust dated October 26, 1981, of record in Book 5815, page 383, said Register's Office (the "Deed of Trust"), as follows:

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> Land in Davidson County, Tennessee, being Lot No. 19 on the Plan of Horton Heights, Section IV as of record in Book 1835, page 129, Register's Office for Davidson County, Tennessee.
>
> Said Lot No. 19 fronts 125 feet on the northeasterly margin of Russleo Drive, and runs back 224.5 feet on the southeasterly line and 155.0 feet on the northwesterly line, to a dead line, measuring 141 feet thereon.

The Deed of Trust secured indebtedness in the principal amount of $26,843.52. The Deed of Trust was modified on November 7, 1985 to increase the total indebtedness secured by the Deed of Trust to $63,549.60, which Modification of Deed of Trust was recorded in Book 6708, page 603, said Register's Office (as amended, the "Amended Deed of Trust"). As Trustee of the Amended Deed of Trust, TNB was an indispensible party to the aforementioned proceeding pursuant to Rule 19 of Tennessee Rules of Civil Procedure.

It is, therefore, ORDERED, ADJUDGED AND DECREED that TNB's Motion to Intervene is granted; it is further

ORDERED, ADJUDGED AND DECREED that the judgment dated August 20, 1990 be amended to provide as follows:

> In order to protect TNB's lien evidenced by the valid Amended Deed of Trust, the Court hereby orders that (i) the one-half (1/2) interest in the Property held by Emily Jane Hurt Brumit and her husband, Herman Edward Brumit, is subject to and encumbered by the lien evidenced by the valid Amended Deed of Trust in favor of TNB, and (ii) the one-half (1/2) interest in the Property held by Ruth Hurt Riley is subject to and encumbered by the lien evidenced by the valid Amended Deed of Trust in favor of TNB. This Order shall be recorded in the Register's Office for Davidson County, Tennessee as evidence of the valid liens described herein.

ORDERED, ADJUDGED AND DECREED that the Court makes no ruling as to whether the plaintiff, Ruth Hurt Riley, is personally liable for the amount owed on the note in the original principal amount of $41,969.89 executed by Herman E. Brumit and Emily J. Brumit on March 8, 1990 or any other indebtedness incurred by Herman Brumit subsequent to these proceedings.

ENTER this _____ day of October, 1990.

C. Allen High, Chancellor

APPROVED FOR ENTRY:

FARRIS, WARFIELD & KANADAY

By: Michael L. Dagley
Michael L. Dagley
Sp. Ct. #1285
Attorney for
Third National Bank in Nashville
Suite 1900
Third National Financial Center
Nashville, Tennessee 37219
615-244-5200

I hereby certify that this is a true copy of original instrument filed in my office.
This 6 day of [illegible] 19
CLAUDIA C. BONNYMAN
By _____ Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order has been mailed first class, postage prepaid to Mr. Knox D. Talley and Ms. Dinah Clark, Attorneys for Defendants, 1101 Kermit Drive, Suite 320, Nashville, Tennessee 37217 and Mr. Phillip E. Kirk, Attorney for Plaintiff, 4800 Charlotte Avenue, Nashville, Tennessee 37209, this 30th day of October, 1990.

Michael L. Dagley

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IDENTIF. TREFERENCE

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FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY TN.

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