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IN PART I, CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

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MAY 15 2000
Dav. Co. Chancery Court

EUGENE C. PILCHER,

Plaintiff,

v.

THOMAS E. CUFF, SR., CANADIAN CONSULATE HOLDING COMPANY, JO ANN P. MOYER, DUANE MARK HUDSON,

Defendants.

CIVIL ACTION NO. 98-1268-I

FILED
2000 MAY 22 PM 12:52
CLERK & MASTER
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FINAL JUDGMENT

This cause came on to be heard on the 1st day of February, 2000 for a trial on the merits before Honorable Irvin H. Kilcrease, Jr., Chancellor, Part I, Chancery Court for Davidson County, Tennessee, sitting without a jury. At the conclusion of the presentation of evidence on behalf of the parties to this action on February 1, 2000, the Court took this matter under advisement. At the Court's request, counsel for the various parties submitted to the Court Proposed Findings of Fact and Conclusions of Law. Upon consideration of the evidence presented by the parties at the trial of this matter, the arguments and briefs of counsel, including the Proposed Findings of Fact and Conclusions of Law filed on behalf of the various parties and the entire record in this matter, the Court issued a Memorandum Opinion in this case on May 4, 2000, setting forth the Court's Findings of Fact and Conclusions of Law. That Memorandum is hereby incorporated herein by reference.

Based upon those Findings of Fact and Conclusions of Law, the Court hereby orders and declares as follows:

1. The Court declares that the Defendant and Counter-Plaintiff, Duane Mark Hudson, validly holds fee simple title to the residence at 1404 Fifth Avenue North which is the subject of this lawsuit based upon the warranty deed in his favor which is of record at Book 10747, Page 247, Register's Office for Davidson County, Tennessee.

2. The interest of the Defendant and Counter-Plaintiff, Duane Mark Hudson in the property referred to in the immediately preceding paragraph is encumbered by the deed of trust executed by Mr. Hudson in favor of D.W. McMackin, Trustee securing an indebtedness owed to Sebring Capital Corporation which is of record at Book 10747, Page 250, Register's Office for Davidson County, Tennessee, but is not encumbered by the deed of trust from Canadian Consulate Holding Company to Eugene C. Pilcher referred to hereinafter.

3. The execution and recordation of that "Release of Lien", bearing the signature of the Plaintiff, Eugene C. Pilcher, which document is of record at Book 10638, Page 676, Register's Office for Davidson County, Tennessee effectively terminated the lien previously existing in Mr. Pilcher's favor which had been created by that deed of trust executed by Canadian Consulate Holding Company in favor of Eugene C. Pilcher which is of record at Book 10491, Page 138, Register's Office for Davidson County, Tennessee.

4. Although Eugene C. Pilcher purportedly carried out a non-judicial foreclosure against the property at 1404 Fifth Avenue North, Nashville, Tennessee 37208 which is owned by Duane Mark Hudson and referred to hereinabove, he had no legal right to conduct such a foreclosure sale. The Court hereby declares that the trustee's deed resulting from that purported foreclosure sale which is of record at Book 10897, Page 269, Register's Office for Davidson County, Tennessee has no effect upon the title to that property and is a mere nullity. The plaintiff, Eugene C. Pilcher, has no present interest, legal or equitable in that real property which is the subject matter of this case. The plaintiff's claim for declaratory relief, seeking removal of an alleged cloud from his title to this property is, accordingly, dismissed with prejudice.

5. The cause of action asserted by the Plaintiff, Eugene Pilcher, against the Defendant, Jo Ann P. Moyer, is hereby dismissed with prejudice.

6. The Plaintiff, Eugene C. Pilcher, is awarded judgment by default against the Defendant Thomas E. Cuff, Sr. in the amount of Sixty-Three Thousand Five Hundred and 00/100 Dollars ($63,500.00).

7. The Third-Party Complaint filed by the Defendant, Duane Mark Hudson, against Valdez Equity Resources, is dismissed without prejudice, it appearing to the Court that the Defendant Hudson was unable to accomplish service of process upon Valdez Equity Resources, the current address of that entity being apparently unknown.

8. The costs of this cause are adjudged against the Plaintiff, Eugene C. Pilcher, for which let execution issue if necessary.

Enter this _____ day of _____, 2000.

CHANCELLOR

I hereby certify that this is a true copy of original instrument filed in my office.
This 24th day of May 20 00
CLAUDIA C. BONNYMAN Clerk & Master
By _____ Deputy

APPROVED FOR ENTRY:

Joel M. Leeman, #3318
Marty S. Turner, #18977
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Attorneys for the Defendant and
Counter-Plaintiff, Duane Mark Hudson

CERTIFICATE OF SERVICE

This is to certify that a copy of this pleading has been served by first-class mail, postage pre-paid, upon Gregory M. Galloway, Esq., 101 Antioch Pike, Suite 100, Nashville, TN 37211-3017; Howard W. Wilson, Esq., Wilson & Bradley, 6 Public Square North, Murfreesboro, TN 37130 and Thomas E. Cuff, Sr., P.O. Box 24343, Nashville, TN 37202-4343 and Canadian Consulate Holding Company, 9 Music Square South, Suite 200, Nashville, TN 37203, this 15th day of May, 2000.

GULLETT, SANFORD, ROBINSON
& MARTIN, PLLC

Joel M. Leeman

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