735847

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

MARGARET BENNETT, GERRY BENNETT and WELLS FARGO BANK, N.A.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 09-1871-IV
JAMES D. GANNON, SR. and PURA I. GANNON,	)	
Defendants.	)	

FD4,TT

DAVIDSON COUNTY
2009 DEC -4 PM
FILED

BILL GARRETT, Davidson County
Trans:T20090083206 ORDER
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20091209-0112618

JUDGMENT QUIETING TITLE TO REAL PROPERT

This matter became before the Court on the Motion for Default Judgment filed by the Plaintiffs, Margaret Bennett and Gerry Bennett (the "Bennetts") and Wells Fargo Bank, N.A. ("Wells Fargo"), against Defendants, James D. Gannon, Sr. and Pura I. Gannon (the "Gannons"). The Plaintiffs seek to have title to certain real property, of which the Gannons are presently the record owners, quieted in the Bennetts' name.

Because the Gannons' present residence is unknown to the Plaintiffs, they were served by publication. The last notice having been published on October 30, 2009, their answer was due on November 30, 2009, but was not received. The Gannons have not otherwise made an appearance in this action.

Based on the Complaint, the underlying circumstances are as follows. On or around December 23, 2003, the Gannons sold the property to the Bennetts for $94,113.00. At the closing of the sale, the Gannons executed a Warranty Deed conveying the property to the Bennetts. A copy of this Warranty Deed is attached hereto as Exhibit A. Wells Fargo Home Mortgage financed the Bennetts' purchase of the property by means of a purchase money mortgage loan. The Warranty Deed and the Deed of Trust in favor of Wells Fargo, however, were never recorded and cannot be located, both having been lost by the closing agent, which is

no longer in business. The Bennetts, having paid the Gannons the contracted purchase price for the property, are entitled to have the property titled in their names.

It is, accordingly, **ORDERED, ADJUDGED** and **DECREED** that all right, title and interest heretofore held by James D. Gannon, Sr. and Pura I. Gannon in the following property is hereby vested in Margaret Bennett and Gerry Bennett, wife and husband:

> Land in Davidson County, Tennessee, being a tract or strip of land marked "reserved" on the plan of LAUREL ACRES, as of record in Book 2133, page 48, Register's Office for said County, described as follows:
>
> BEGINNING at a concrete monument set at the Northwest corner of Lot No. 17 on said plan; thence North 3° 48' East 21 feet to a concrete monument set at the Southwest corner of Lot No. 16 on said Plan; thence Southeasterly along the Southerly line of said Lot No. 16, 180 feet to a concrete monument; the beginning of a curve to the left having a radius of 20 feet; thence Northeasterly around said curve 30.7 feet to concrete monument in the Westerly margin of Mashburn Drive; thence Southerly 58.6 feet to a concrete monument set in said margin of Mashburn Road and at a corner of Lot No. 17 on said plan; thence Northwesterly with the curve at the Northeast corner of Lot No. 17, having a radius of 20 feet, 30.7 feet to a concrete monument set in the Northerly line of Lot No. 17; thence Northwesterly with the Northerly line of Lot No. 17, 173.6 feet to the POINT OF BEGINNING, together with the following described property.
>
> Land in the 6th formerly the 9th Civil District of Davidson County, Tennessee described as follows:
>
> BEGINNING on the Westerly margin of a 25 feet private road at the Southwest corner of Lot No. 9 on the Plan of LAUREL ACRES, as of record in Book 2133, Page 48, said Register's Office; thence with the Southern boundary line of Lots Nos. 9, 10 and 11 on said Plan; South 86° East 434.7 feet to the Northwest corner of Lot No. 13 on said Plan; thence with the Western boundary of Lots Nos. 13, 14, 15 and 16 on said Plan, South 3° 48' West 281.1 feet to the Northeast corner of the property conveyed to the City of Nashville by Deed from Edgar Turrentine and wife, of record in Book 2248, Page 465, said Register's Office; thence with the Northern boundary line of said City of Nashville property, Westwardly 65 feet to the Northwest corner of said property; thence with the Westerly boundary of said property, Southwardly 125.8 feet to a point in the Northerly boundary line of the Plan of MASHBURN HEIGHTS, as of record in Book 1835, Page 1, said Register's Office; thence with the same, North 86°, 14' West 369.7 feet, More or less, to the Westerly margin of said private road; thence with the same Northwardly 406 feet, more or less, TO THE BEGINNING.
>
> This conveyance is subject to any and all existing easements, building setback

lines and restrictions of record.

Being the same property conveyed to James D. Gannon, Sr. and Pura I. Gannon, as husband and wife, by General Warranty Deed dated May 28, 1999, of record in Deed Book 11542, page 862, in the Register's Office of Davidson County, Tennessee.

Except with respect to any bona fide purchaser of the property without notice, this Judgment shall be *nunc pro tunc*, from and after December 23, 2003, the date of the lost Warranty Deed from the Gannons to the Bennetts.

The costs of this action shall be taxed to the Plaintiffs.

CHANCELLOR

APPROVED FOR ENTRY:

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE THIS 9 DAY OF Dec 2009
CRISTI SCOTT, CLERK & MASTER
BY DEPUTY

HIX & GRAY, PLC

By: Frank H. Reeves

Frank H. Reeves
Tennessee Supreme Court
Registration Number 3651

Marshall L. Hix
Tennessee Supreme Court
Registration Number 10481

1230 Regions Center
315 Deaderick Street
Nashville, Tennessee 37238
Telephone (615) 254-4444
Facsimile (615) 254-4445
Electronic Mail: mhix@hixgray.com

Counsel for Plaintiffs Margaret Bennett, Gerry Bennett and Wells Fargo Bank, N.A.

AND WHEN RECORDED RETURN TO
Mooser & Frelbert, LLC
161 St. Matthews Avenue
Louisville, Kentucky 40207
Filed 12-11-03

I hereby certify the foregoing
to be a true and exact copy
of the original.

Mooser & Frelbert Land Title, LLC
Louisville, KY 502.315.1650

SEND TAX BILLS TO:
Margaret Bennett Gerry Bennett
2631 Mashburn Court
Nashville, TN. 37210

MAP PARCEL NUMBERS
119-100-140-00

WARRANTY DEED

THIS INDENTURE, made and entered into this 23rd day of December, 2003, by and between James D. Gannon, Sr. and Flora J. Gannon, as husband and wife, party of the first part, and Margaret Bennett and Gerry Bennett, wife and husband, party of the second part,

WITNESSETH: That for and in consideration of Ten Dollars ($10.00), cash in hand paid, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the said party of the first part has bargained and sold and does hereby bargain, sell, convey and confirm unto the said party of the second part the following described real estate, situated and being in Davidson County, State of Tennessee:

Map Par No. 119-100-140-00

Land in Davidson County, Tennessee, being a tract or strip of land marked "reserved" on the plan of LAUREL ACRES, as of record in Book 2133, Page 48, Register's Office for said County, described as follows:

BEGINNING at a concrete monument set at the Northwest corner of Lot No. 17 on said Plan; thence North 3° 48' East 21 feet to a concrete monument set at the Southwest corner of Lot No. 16 on said Plan; thence Southeasterly along the Southerly line of said Lot No. 16, 180 feet to a concrete monument; the beginning of a curve to the left having a radius of 20 feet; thence Northeasterly around said curve 30.7 feet to concrete monument in the Westerly margin of Mashburn Drive; thence Southerly 58.6 feet to a concrete monument set in said margin of Mashburn Road and at a corner of Lot No. 17 on said Plan; thence Northwesterly, with the curve at the Northeast corner of Lot No. 17, having a radius of 20 feet, 30.7 feet to a concrete monument set in the Northerly line of Lot No. 17; thence Northwesterly with the Northerly line of Lot No. 17 173.6 feet to the POINT OF BEGINNING, together with the following described property:

Land in the 6TH formerly the 9TH Civil District of Davidson County, Tennessee described as follows:

BEGINNING on the Westerly margin of a 25 foot private road at the Southwest corner of Lot No. 98 on the plan of LAUREL ACRES, as of record in Book 2133, Page 48, said Register's Office; thence with the Southern boundary line of Lots Nos. 9, 10, and 11 on said Plan, South 85° East 434.7 feet to the Northwest corner of Lot No: 13 on said Plan; thence with the Western boundary of Lots Nos. 13, 14, 15 and 16 on said Plan, South 3° 38' West 281.1 feet to the Northeast corner of the property conveyed to the City of Nashville by Deed from Edgar Turrentine and wife, of record in Book 2248, Page 465, said Register's Office; thence with the Northern boundary line of said City of Nashville property, Westwardly 65 feet to the Northeast corner of said property; thence with the Westerly boundary of said property, Southwardly 125.8 feet to a point in the Northerly boundary line of the Plan of MASHBURN

EXHIBIT
A

HEIGHTS, as of record in Book 1835, Page 1, said Register's Office; thence with the same, North 86° 14' West 369.7 feet, More or less, to the Westerly margin of said private road; thence with the same Northwardly 406 feet, more or less, TO THE BEGINNING.

Being the same property conveyed to James D. Gannon, Sr. and Pura L. Gannon, as husband and wife, by General Warranty Deed dated May 28, 1999, of record in Deed Book 11542, Page 882, in the Register's Office of Davidson County, Tennessee.

TO HAVE AND TO HOLD The aforesaid real estate, together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto the said party of the second part, his/her heirs, successors and assigns in fee simple forever.

And the said party of the first part does hereby covenant with the said party of the second part that he is lawfully seized in fee of the aforedescribed real estate; that he has a good right to sell and convey the same; that the same is unencumbered;

and that the title and quiet possession thereto he will warrant and forever defend against the lawful claims of all persons.

The word "party" as used herein shall mean "parties" if more than one person or entity be referred to, and pronouns shall be construed according to their proper gender and number according to the context hereof.
WITNESS the signature of the said party of the first part the day and year first above written.

James D. Gannon, Sr.

Pura L. Gannon

STATE OF TENNESSEE, COUNTY OF DAVIDSON

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared James D. Gannon, Sr. and Pura L. Gannon, as husband and wife to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he/she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal at office this 23rd day of December, 2003.

My commission expires 9/22/07

Notary Public

JAMES H. WOODY
Notary Public At Large
DAVIDSON COUNTY, TENN.
My Commission Expires September 22, 2007

I, or we, hereby swear or affirm that, to the best of affiant's knowledge, information, and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater is, Ninety Four Thousand One Hundred Thirteen dollars and Zero cents, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Affiant

Subscribed and sworn to before me this 23rd day of December, 2003

JAMES H. WOODY
Notary Public At Large
DAVIDSON COUNTY, TENN.
My Commission Expires September 22, 2007

THIS INSTRUMENT PREPARED BY:

Mooser and Freibert, LLC
161 St. Matthews Avenue
Louisville, KY 40207
(502) 315-1650