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Dav. Co. Chancery Court

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY, TENNESSEE

WALTER MCCAULEY,

Plaintiff,

v.

ROBERT E. BELL,

Defendant.

Case No. 12-866-II

FILED
2012 SEP 12 AM 10:51
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C.&M.

ORDER

This matter came before the Court on Thursday, September 6, 2012 on Plaintiff Walter McCauley's ("McCauley") damages hearing (the "Hearing") which followed the granting of McCauley's Motion for Default Judgment against Defendant Robert E. Bell ("Bell"). This lawsuit sought to clarify and declare the interests in the real property located at 3214 Charlotte Avenue, Nashville, Tennessee 37209, as more fully described in Exhibit 1 to this Order (the "Property"). A default judgment was granted by this Court on August 23, 2012, and since the relief sought was non-liquidated damages, this Hearing was scheduled. Bell did not appear nor did he file any Memorandum opposing the relief sought. Based on the Complaint, the affidavit of McCauley submitted at the Hearing, the arguments of counsel and McCauley's Memorandum in Support of the requested relief, the Court grants the relief sought by McCauley in this litigation.

It is therefore ORDERED, ADJUDGED and DECREED that:

(1) The Court finds that a constructive trust is hereby imposed upon Bell, and any remaining interest that Bell may hold in the Property is held in trust for the use and benefit of McCauley as the sole beneficial owner of the Property, and this remedy is the warranted equitable remedy;

BILL GARRETT, Davidson County
Trans:T20120070299 ORDER
Recvd: 09/18/12 12:36 7 pgs
Fees:37.00 Taxes:0.00
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(2) Title to the real Property is hereby fully vested, 100%, into Walter McCauley, who is now the sole owner of the Property in fee simple;

(3) The Defendant Robert Bell is hereby divested of any right, title, or interest he may have in the Property; and

(4) All costs, including discretionary costs, have been agreed to be paid by McCauley.

Entered this the ____ day of September, 2012.

CHANCELLOR CAROL L. MCCOY

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 17th DAY OF Sept. 2012
CRISTI SCOTT, CLERK & MASTER
BY _____ DEPUTY

Submitted for Approval By:

BRADLEY ARANT BOULT CUMMINGS LLP

By: _____

David K. Taylor (No. 11154)
Kristi M. Wilcox (No. 30404)
BRADLEY ARANT BOULT CUMMINGS LLP
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via Certified and Regular Mail, to:

Robert E. Bell
4450 Mt. Zion Road
Springfield, TN 37172

on this the 4th day of September, 2012.

Kristi M. Wilcox

EXHIBIT 1

DESCRIPTION OF PROPERTY:

The real property at issue in McCauley v. Bell, Case No. 12-866-II, Davidson County (Tennessee) Chancery Court, (the "Property") is commonly known as having an address of 3214 Charlotte Avenue, Nashville, Tennessee, 37209, and is legally described as follows:

TRACT ONE:

A certain tract or parcel of land in Davidson County, State of Tennessee, described as follows, to wit:

Being the westerly part of Lot No. 10 on the Plan of the Resubdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee.

Beginning at a point in the southerly margin of Trevor Street, 68.88 feet in a westerly direction from the Northeast corner of Lot No. 10; thence in a westerly direction with the southerly margin of Trevor Street 81.12 feet to an alley; thence in a southerly direction with the easterly margin of the alley 50 feet to the southwest corner of Lot No. 10; thence in an easterly direction with the common line between Lots 10 and 11 of the said Plan of Resubdivision 84.62 feet to the southeast corner of the property hereby conveyed; thence North 02 deg. 59 min. 52 sec. east 50.05 feet to the beginning.

TRACT TWO:

Land in Davidson County, Tennessee, being Lot No. 11 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

EXHIBIT
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INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING TRACT:

Being a part of Lot No. 11 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee.

Beginning at a point in the westerly margin of 32nd Court, said point being the common corner between Lots 12 and 11 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee; thence with the westerly margin of 32nd Court and the easterly boundary of said Lot 11 N 01 deg. 00 min. 21 sec. E 50 feet to the common corner between Lots 10 and 11 of the aforesaid subdivision; thence with the common line between said lots 10 and 11, S 89 deg. 48 min. 28 sec. W 65.38 feet to a point; thence S 02 deg. 59 min. 52 sec. E 50.05 feet to a point in the common line between said lots 11 and 12; thence with the common line between said lots 11 and 12 N 89 deg. 48 min. 28 sec. E 61.89 feet to the point of beginning, containing 3,181.00 square feet.

TRACT THREE:

Land in Davidson County, Tennessee, being Lot No. 12 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING TRACT:

Being part of Lot No. 12 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee.

Beginning at a point in the westerly margin of 32nd Court, said point being the common corner between Lots 12 and 13 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee; thence with the westerly margin of 32nd Court and the easterly boundary of said Lot 12, N 01 deg. 00 min. 21 sec. E 50 feet to the common corner between Lots 11 and 12 of the above mentioned subdivision; thence with the common line between said Lots 11 and 12, S 89 deg. 48 min. 28 sec. W 61.89 feet to a point; thence S 02 deg. 59 min. 52 sec. E 50.05 feet to a point in the common line between said Lots 12 and 13; thence with the common line between said Lots 12 and 13, N 89 deg. 48 min. 28 sec. E 58.39 feet to the point of beginning, containing 3,006.00 square feet.

TRACT FOUR:

Land in Davidson County, Tennessee, being Lot No. 13 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING TRACT:

Being a part of Lot No. 13 on the plan of the resubdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee.

Beginning in the westerly margin of 32nd Court at a point, said point being the common corner of Lots 13 and 14 on the Plan of the Resubdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee; thence with the westerly margin of 32nd Court and the easterly boundary of said Lot No. 13, North 01 degree 00 minutes

21 seconds East 50 feet to the common corner between Lots 12 and 13 of the above mentioned subdivision; thence with the common line between said Lots 12 and 13, South 89 degrees 48 minutes 28 seconds West 58.39 feet to a point; thence South 02 degrees 59 minutes 52 seconds East 50.05 feet to a point in the common line between said Lots 13 and 14; thence with the common line between said Lots 13 and 14, North 89 degrees 48 minutes 28 seconds East 54.90 feet to the point of beginning, containing 2,832.00 square feet.

TRACT FIVE:

Land in Davidson County, Tennessee, being Lot No. 14 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING TRACT:

Being part of Lot No. 14 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee.

Beginning at the northwest corner of 32nd Court and an alley, said corner being the southeast corner of Lot 14 on the plan of the re-subdivision of the Wilcox Property, as of record in Book 421, page 42, Register's Office for Davidson County, Tennessee; thence with the northerly margin of said alley and the southerly boundary of said Lot 14, S 89 deg. 48 min. 28 sec. W 51.40 feet to a point; thence N 02 deg. 59 min. 52 sec. W 50.05 feet to a point in the common line between Lots 13 and 14 of the said subdivision; thence with the common line between said Lots 13 and 14, N 89 deg. 48 min. 28 sec. E 54.90 feet to the common easterly corner between said Lots 13 and 14, being in the westerly margin of 32nd Court; thence with the westerly margin of 32nd Court and the easterly boundary of said Lot 14, S 01 deg. 00 min. 21 sec. W 50 feet to the point of beginning, containing 2,657.00 square feet.

TRACT SIX:

Land in Davidson County, Tennessee, being Lot No. 16 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING TRACT:

Being a part of Lot 16 of Wilcox Subdivision as of record in Subdivision Book 161, page 159, Register's Office Davidson County, and more particularly described as follows:

Commencing at a point, said point being at the intersection of the west dedicated right of way line of 32nd Court and the north dedicated right of way line of Charlotte Avenue; thence with the north dedicated right of way line of Charlotte Avenue South 80 degrees 09 minutes West for 51.5 feet to a point of beginning; thence continuing with the north dedicated right of way line of Charlotte Avenue South 80 degrees 09 minutes West for 51.5 feet to a point; thence North 01 degrees 15 minutes East for 2.1 feet to a point in the proposed north right of way line of Charlotte Avenue; thence with the proposed north right of way line of Charlotte Avenue along a curve to the left with a radius of 1,591.02 feet for 51.7 feet to a point; thence South 01 degrees 08 minutes West for 0.8 feet to the point of beginning, containing 77 square feet.

Being the same property conveyed to Darrell M. Breaux and wife, Linda G. Breaux by Special

Warranty Deed of AmSouth Bank, Executor of the Estate of T. Herschel Hudgins and the Mildred V. Hudgins Revocable Trust of record at Instrument No. 20030521-0069289, Register's Office of Davidson County, Tennessee.

TRACT SEVEN:

Land in Davidson County, Tennessee, being Lot No. 17 on the Plan of the Re-Subdivision of the Wilcox Property as of record in Book 421, page 42, Register's Office for said County, to which plan reference is hereby made for a more complete and accurate description.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM ARE THE FOLLOWING TWO (2) TRACTS:

PARCEL ONE:

Being a part of Lot 17 of Wilcox Subdivision, as of record in Subdivision Book 161, page 159, Register's Office Davidson County and more particularly described as follows:

Beginning at a point, said point being at the intersection of the west dedicated right of way line of 32nd Court and the north dedicated right of way line of Charlotte Avenue; thence with the north dedicated right of way line of Charlotte Avenue south 80 degrees 09 minutes west for 103.0 feet to a point of beginning; thence continuing with the north dedicated right of way line of Charlotte Avenue south 80 degrees 09 minutes west for 51.5 feet to a point; thence north 01 degree 23 minutes east for 3.5 feet to a point in the proposed north right of way line of Charlotte Avenue; thence with the proposed north right of way line of Charlotte Avenue along a curve to the left with a radius of 1,591.02 feet for 51.7 feet to a point; thence south 01 degree 15 minutes west for 2.1 feet back to the point of beginning, containing 144 square feet.

PARCEL TWO:

Beginning at the point of intersection of the existing north margin of S. R. 24 and the west boundary of the T. Herschel Hudgins property, said point of intersection being 39.84 feet left of S. R. 24 proposed centerline station 50+130.451; thence with said existing margin having a curve right and westerly 50 feet, more or less, to a point; said point being 39.73 feet left of S. R. 24 proposed centerline station 50+114.874; thence with the existing east margin of an alley northerly 36 feet, more or less, to a point, said point being 8.21 feet left of said alley's proposed centerline station 1+076.50; thence with the proposed north margin of S. R. 24 south 89 degrees 04 minutes 51 seconds east 4.09 feet to a point, said point being 12.30 feet left of said alley's proposed centerline station 1+076.50; thence with the proposed east margin of said alley south 00 degrees 54 minutes 41 seconds west 33.81 feet to a point, said point being 41.01 feet left of S.R. 24 proposed centerline station 50+116.248; thence wth the proposed north margin of S.R. 24 having a 3,239.83 foot radius curve left and easterly 46.33 feet to a point, said point being 41.01 feet left of S.R. 24 proposed centerline station 50+130.548; thence with said boundary south 00 degrees 59 minutes 09 seconds west 1.86 feet to the point of beginning, containing 237 square feet.