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Dav. Co. Chancery Court

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

BANK OF AMERICA, N.A.,
Successor by Merger to
BOA HOME LOANS SERVICING, L.P.

Plaintiff,

v.

SANDRA E. GILBERT;
M. TODD JACKSON; and
JERRY BUTLER BUILDERS, L.L.C.,

Defendants.

Case No. 12-290-4

FILED
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DAVIDSON CO. CHANCERY CT.

AGREED ORDER AS TO SEPARATE DEFENDANT, JERRY BUTLER BUILDERS, L.L.C.

Upon agreement of plaintiff, Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, L.P., and separate defendant, Jerry Butler Builders, L.L.C., as evidenced by the signatures below, the Court, being duly and sufficiently advised, finds:

1. On February 27, 1998, Sanders and McCrary, a Tennessee Joint Venture, as the grantor, conveyed approximately twenty (20) acres of real property located in Davidson County, Tennessee (hereinafter referred to as the "original conveyance") to Butler Developers, L.L.C., as the grantee, via warranty deed. This warranty deed was duly acknowledged and filed for record in the Office of the Register for Davidson County, Tennessee (the "Register's Office") on March 5, 1998 at Book 19823, Page 722.

2. On June 2, 1999, Butler Developers, L.L.C., as the grantor, conveyed the above-referenced real property to Jerry Butler Builders, L.L.C., as the grantee, via quitclaim deed. This

BILL GARRETT, Davidson County
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quitclaim deed was duly acknowledged and filed for record in the Register's Office on June 3, 1999 at Book 11511, Page 370.

3. On October 5, 2001, Jerry Butler Builders as the grantor, conveyed the following-described property out of the original conveyance to Sandra E. Gilbert, as the grantee, via warranty deed:

> Land in the 2nd Civil District of Davidson County, Tennessee, described as follows: BEING Lot No. 191 on the plan of Meadow Woods, Section Two, of record in Instrument No. 20000309-0024168, Register's Office for Davidson County, Tennessee, to which reference is hereby made for a more particular description thereof
>
> Tax Parcel No. 164-16-0A-027.00

The subject property is more commonly known as 405 Terrapin Trail, Antioch, Tennessee 37013.

4. Said warranty deed was filed for record in the Register's Office on October 10, 2001 as Instrument No: 20011010-0110367.

5. Contemporaneously therewith and for the purpose of securing an indebtedness in the principal amount of $123,050.00, Sandra E. Gilbert executed and delivered a deed of trust encumbering the subject property to Gregg S. Murphy as trustee for Columbia National Incorporated. This deed of trust was duly acknowledged and filed for record in the Register's Office on October 10, 2001 as Instrument No. 20011010-0110368.

6. Plaintiff is the current owner and holder of this asset.

7. The above-referenced warranty deed is defective. As an initial matter, in two places the deed names the grantor as "Jerry Butler Builders," although the intent of the parties was that the grantor be correctly cited in the deed as "Jerry Butler Builders, L.L.C." Secondly, separate defendant, M. Todd Jackson, executed the acknowledgment; however, the notarization thereto fails to cite in what capacity he executed the instrument on behalf of Jerry Butler

Builders, L.L.C. The intent of the parties was that M. Todd Jackson execute the warranty deed on behalf of Jerry Butler Builders, L.L.C. in his capacity as an officer of that limited liability company.

8. Accordingly, this Court should enter its order reforming the warranty deed to consistently cite the grantor therein as "Jerry Butler Builders, L.L.C." and to reflect that M. Todd Jackson executed the instrument in his capacity as an officer of Jerry Butler Builders, L.L.C.; and declaring that the warranty deed, was sufficient on its face to convey the subject property as contemplated by the parties on the date of its execution.

9. Separate defendant, Jerry Butler Builders, L.L.C., does not object to plaintiff's reformation action herein.

IT IS, THEREFORE, ORDERED AND DECREED AS FOLLOWS:

(a) Separate defendant, Jerry Butler Builders, L.L.C., does not object to the reformation of the warranty deed of record as Instrument No. 20011010-0110367 with the Office of the Register of Davidson County, Tennessee to cite the grantor therein as "Jerry Butler Builders, L.L.C." and to reflect that M. Todd Jackson executed the instrument in his capacity as an officer of Jerry Butler Builders, L.L.C.;

(b) That said warranty deed, was sufficient on its face to convey the subject property as contemplated by the parties on the date of its execution; and

(c) Separate defendant, Jerry Butler Builders, L.L.C., is hereby dismissed from this action and court costs shall be assessed to plaintiff upon completion of this case.

IT IS SO ORDERED.

Chancellor

Date: _____

PREPARED AND APPROVED BY:

WILSON & ASSOCIATES, P.L.L.C.
1882 North Starr Road
Fayetteville, Arkansas 72701
(479) 521-5820
(479) 521-5543 (facsimile)

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 5TH DAY OF Oct 2012
CRIST SCOTT, CLERK & MASTER
BY _____ DEPUTY

By: _____
Linda M. Schneider (TN B.P.R.#28159)
H. Keith Morrison (TN B.P.R.#024871)
Attorneys for Plaintiff

AND APPROVED BY:

JERRY BUTLER BUILDERS, L.L.C.
5068 Murfreesboro Road
La Vergne, Tennessee 37086.
615-771-5143

By: _____ 1 member
Jerry Butler

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July, 2012, a true and copy of the foregoing Agreed Order was sent via U.S. Mail postage prepaid to the last known address of Sandra L. Gilbert, 4121 Apache Trail, Antioch, Tennessee 37013 and M. Todd Jackson, 3326 Aspen Grove Dr., Suite 400, Franklin, TN 37067.

_____
Linda M. Schneider

MAILED
7/12/12