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DAVIDSON CO. CHANCERY CT.

IN PART II OF THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE, AT NASHVILLE

MICHAEL G. HOSKINS	)	
	)	
Plaintiff,	)	FO-9
	)	CASE NO. 15-800-II
v.	)	**CHANCELLOR C. McCOY**
	)	
JOHN DANIEL TATE	)	TT
Defendant.		

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SEP 14 2015

Dav. Co. Chancery Court

FINAL DECREE QUIETING TITLE

This matter came to be heard on September 11, 2015, before Honorable Carol L. McCoy, Chancellor for Part II of the Davidson County Chancery Court, upon plaintiff Michael G. Hoskins' ("Hoskins") Motion for Summary Judgment ("Motion"), filed pursuant to Tenn. R. Civ. P. 56.01, upon his Verified Complaint to Quiet Title. In support of the Motion, Hoskins filed a Memorandum of Law, Statement of Undisputed Material Facts and his sworn Affidavit. In response thereto, defendant John Daniel Tate, *pro se*, filed an unsworn response, relying upon Tenn. R. Civ. P. 56.03, entitled "Answers, Affirmative Defenses, and Counterclaim to Statement of Undisputed Material Facts in Support of Plaintiff's Motion for Summary Judgment and Verified Complaint to Quiet Title," (hereinafter "Tate Response"). As the matter was called, John Daniel Tate presented the Court with a Notice of Filing showing on September 10, 2015, he filed a Chapter 13 Bankruptcy proceeding in the United States Bankruptcy Court for the Western District of Kentucky.

The Court acknowledges in most instances a notice of bankruptcy filing "automatically stays" all claims against the debtor or the debtor's property. *See* 11 U.S.C. 362(a). However, this is not an *in personam* action against the defendant-debtor or any property of the defendant-

BILL GARRETT, Davidson County
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debtor. The Verified Complaint to Quiet Title does not seek recovery of a judgment against the defendant-debtor or to enforce or perfect a lien against the defendant-debtor's property. The undisputed facts demonstrate plaintiff Hoskins holds title to the real property in question. This *in rem* action merely seeks to confirm the expiration of the redemption period codified at Tenn. Code Ann. § 66-8-102. Accordingly, the Court finds the automatic stay is inapplicable to this *in rem* proceeding, and the Court has jurisdiction to resolve the pending Motion as the real property in question is located in Davidson County, Tennessee.

NOW THERFORE, upon consideration of the Motion, Response, and argument of the parties, both acting *pro se*,[1] including the Notice of Bankruptcy Filing, and the entire record in this case, the Court makes the following findings of fact and conclusions of law:

1. On August 10, 2012, the Seventh Circuit Court of Davidson County entered an Order of Sale directing the Davidson County Sheriff to levy upon the real property owned by the defendant JOHN DANIEL TATE, located at 5909 Old Harding Pike, Nashville, Tennessee, 37205, and execute a public sale by auction to the highest bidder to satisfy certain judgment liens of record against the property, subject to the statutory redemption period found at Tenn. Code Ann. § 66-8-102.

2. After notice by publication, on September 18, 2012, the Davidson County Sheriff duly conducted a Sheriff's Sale and Hoskins was the highest and successful bidder. The Davidson County Sheriff subsequently filed a Sheriff's Certificate of Sale verifying the foregoing.

[1] Counsel entered an appearance on behalf of Mr. Tate, but did not file a response to the Motion nor appear in Court, and defendant requested and was allowed to represent himself in opposition to the Motion.

3. On October 26, 2012, the Seventh Circuit Court entered an Order confirming the Sheriff's Sale, acknowledging Hoskins' tender of the purchase price, and directing the Davidson County Sheriff to execute a Sheriff's Deed conveying the subject property to Hoskins.

4. On November 1, 2012, the Davidson County Sheriff's Office (as "GRANTOR") transferred and conveyed to Michael G. Hoskins (as "GRANTEE"), by Sheriff's Deed, all right, title and interest that defendant JOHN DANIEL TATE had in and to said property located in Davidson County recorded at Map 129-4 and Parcel No. 76, and more particularly described as follows:

> Land in Davidson County, Tennessee being Lot No. 1 on the Plan of Longview Subdivision of record in Book 6200, page 620, Register's Office of Davidson County, Tennessee to which plan reference is hereby made for a more complete description thereof.
>
> Being the same property conveyed to John Daniel Tate, unmarried, by deed of record in Book 11597, page 892, Register's Office of Davidson County, Tennessee. The said John Daniel Tate having been married and now divorced by Final Decree of Record in the Fourth Circuit Court for Davidson County, Tennessee, Docket No. 05D-798 on the 24th day of May, 2006, and this conveyance is in further resolution of the marital estate pursuant to the terms of the Marital Dissolution Agreement and pursuant to Quit Claim Deed of Record in Instrument No. 200060607-0067698, Register's Office for Davidson County.
>
> This is improved real property and is commonly known as 5909 Old Harding Pike, Nashville, TN 37205.

5. A true and exact copy of said Sheriff's Deed is recorded in the Register's Office of Davidson County, Tennessee, at Instrument No. 20121101-0100514.

6. Tenn. Code Ann. § 66-8-101(1), in pertinent part, provides, "[r]eal estate sold for debt shall be redeemable at any time within two (2) years after such sale (1) where it is sold under execution. ..."

7. Defendant John Daniel Tate's real property, described above, was sold under execution by the Davidson County Sheriff on September 18, 2012.

8. Tenn. Code Ann. § 66-8-102, provides "[r]eal estate sold for debt and made redeemable shall continue redeemable to the debtor and the debtor's creditors for two (2) years after the sale, upon the terms set forth in this chapter, no matter how often it had been previously redeemed."

9. More than two (2) years has elapsed from the Sheriff's Sale on September 18, 2012, during which time neither defendant John Daniel Tate, nor any of his creditors, successors, heirs or assigns, made an offer of redemption or a tender to Hoskins to redeem the property.

10. Accordingly, the Court finds the statutory redemption period, codified at Tenn. Code Ann. § 66-8-102, expired without an offer of redemption having been made by defendant John Daniel Tate, or any of his creditors, successors, heirs or assigns.

11. On July 6, 2015, Hoskins filed a Verified Complaint to Quiet Title to the real property described above.

12. On July 6, 2015, Hoskins sent, postage prepaid, a certified copy of the original Summons and Verified Complaint to defendant, by certified return receipt mail (Tracking No. 7009 2820 0004 3522 4194).

13. On July 15, 2015, defendant personally received the certified copy of the original Summons and Verified Complaint.

14. On July 27, 2015, Hoskins returned service of process, which attached the return receipt showing personal acceptance by defendant of service of process. Therefore, the parties are properly before the Court and jurisdiction is proper in this Court.

15. On July 27, 2015, Hoskins filed a properly supported motion for summary judgment, which was set to be heard on September 11, 2015.

16. Defendant John Daniel Tate filed a timely response, however, his response fails to produce any records or documents challenging the authenticity of the documents supporting Hoskins' Motion, fails to make citations to the record of any disputed material facts, and fails to otherwise demonstrate how any of the foregoing material facts are in dispute for purposes of summary judgment.

17. Even considering the facts in the light most favorable to the non-moving party, the Court finds that the undisputed evidence and the inferences reasonably drawn from the evidence permit reasonable persons to reach only one conclusion—that Hoskins, the moving party, is entitled to a judgment as a matter of law.

18. Defendant John Daniel Tate has offered unsworn statements and conclusory allegations challenging the propriety of the underlying debt, which was adjudicated years ago in a separate court. This Court has no jurisdiction to undo the final judgments entered by a separate court, and the record does not evidence defendant John Daniel Tate appealed the final judgments which were recorded and attached as judicial lien's against his property, and ultimately resulted in the judicially ordered Sheriff's Sale executed on September 18, 2012.

Based upon the foregoing findings of fact and conclusions of law, it is HEREBY ORDERED, ADJUDGED AND DECREED:

1. Plaintiff Hoskins' Motion for Summary Judgment should be, and is hereby GRANTED.

2. KNOW ALL MEN BY THESE PRESENTS: Michael G. Hoskins holds fee simple absolute title to the real property located in Davidson County recorded at Map 129-4 and Parcel No. 76, and more particularly described as follows:

> Land in Davidson County, Tennessee being Lot No. 1 on the Plan of Longview Subdivision of record in Book 6200, page 620, Register's Office of

Davidson County, Tennessee to which plan reference is hereby made for a more complete description thereof.

Being the same property conveyed to John Daniel Tate, unmarried, by deed of record in Book 11597, page 892, Register's Office of Davidson County, Tennessee. The said John Daniel Tate having been married and now divorced by Final Decree of Record in the Fourth Circuit Court for Davidson County, Tennessee, Docket No. 05D-798 on the 24th day of May, 2006, and this conveyance is in further resolution of the marital estate pursuant to the terms of the Marital Dissolution Agreement and pursuant to Quit Claim Deed of Record in Instrument No. 200060607-0067698, Register's Office for Davidson County.

This is improved real property and is commonly known as 5909 Old Harding Pike, Nashville, TN 37205.

3. Michael G. Hoskins' fee simple absolute title to the above-described real property is not subject to any right of redemption, statutory or otherwise, and all such redemption rights have expired.

4. The Court further finds that there is no just reason for delay, and enters this FINAL DECREE QUIETING TITLE as a final order under Tenn. R. Civ. P. 54.02.

5. Court Costs are taxed to plaintiff, Michael G. Hoskins, for which execution may issue if necessary.

IT IS SO ORDERED.

ENTERED THIS___, DAY OF SEPTEMBER, 2015.

Carol L. McCoy

HONORABLE CAROL L. McCOY
CHANCELLOR OF CHANCERY COURT FOR
DAVIDSON COUNTY, TENNESSEE (PART II)

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 1st DAY OF October 2015
CRISTI SCOTT, CLERK & MASTER
BY Beth Welch
DEPUTY

SUBMITTED AND APPROVED BY:

Michael G. Hoskins (B.P.R. No. 024507)
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Nashville, TN 37203
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Pro se

CERTIFICATE OF SERVICE

I hereby verify and affirm that on September 14, 2015, a true and exact copy of the foregoing *FINAL DECREE QUIETING TITLE* was served by facsimile and electronic mail to:

Robinson, Reagan & Young, PLLC
Mark B. Reagan, Esq. (B.P.R. No. 017530)
446 James Robertson Parkway, Suite 200
Nashville, Tennessee 37219
Telephone: (615) 726-0900
Facsimile: (615) 256-3634
Attorney for Defendant

And by pre-paid U.S. Mail to:

Mr. William W. Lawrence
310 Republic Plaza
200 S. Seventh Street
Louisville, KY 40202

Bankruptcy Trustee for
U.S. Bankruptcy Court for Western District of Kentucky

Michael G. Hoskins