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

ARTHUR INGRAM, JR., ARTHUR INGRAM, III, and BRENDA INGRAM,	)
Plaintiffs,	)
v.	)
PRIORITY TRUSTEE SERVICES OF TN, LLC, BROCK AND SCOTT, PLLC, PATRICK TAGGART, AND BRYON WELLS,	)
Defendants.	)

FILED
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CLERK & MASTER
DAVIDSON CO. CHANCERY
D.C.

Case No. 17-0745-I
Consolidated with Case No. 18-634-I

Karen Johnson Davidson County
Batch# 208279 ORDER
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MEMORANDUM AND ORDER

This consolidated case came before the Court for hearing on March 5, 2019, having been specially set at the Court's request and with the agreement of the parties, on Defendant Brock and Scott, PLLC's Motion to Rescind Foreclosure Sale, Reinstate Deed of Trust and Dissolve Temporary Injunction. Present at the hearing were Plaintiffs Arthur Ingram, Jr., Brenda Ingram, and Arthur Ingram, III, representing themselves, Nicholas H. Adler, Attorney for Defendants Brock & Scott, PLLC and Patrick Taggart, Defendant Byron Wells, and Donald J. Serkin, Attorney for Defendant Byron Wells. Defendant Priority Trustee Services of TN, LLC did not file a response to Defendant Brock & Scott, PLLC's motion or attend the hearing on the motion, through its counsel of record, Khristie Kelly, or otherwise.

Upon review of Defendant Brock & Scott, PLLC's motion, Defendant Byron Wells' response to the motion, Plaintiffs' joint response to the motion, the arguments of counsel and the Plaintiffs, and the entire record in this cause, the Court finds that the motion should be granted in

part, and denied in part, as set forth below. The Court makes the following findings of fact and conclusions of law:

1. Defendants Brock & Scott, PLLC and Patrick Taggart, Defendant Byron Wells, and Plaintiffs agree that the foreclosure sale of the real property commonly known of record as 7309 Smokey Hill Road, Antioch, Tennessee, further identified as Lot 281, Plan of Section Two, Apple Valley, Residential Planned Unit Development, Davidson County, Tennessee (the "Property"), on May 24, 2018 by Defendant Brock & Scott, PLLC, as Substitute Trustee, to Defendant Byron Wells, as Purchaser, should be set aside and rescinded.

2. Under the Court's prior order entered on December 19, 2018 denying Defendants' Motion for Summary Judgment, the Court made specific findings of fact and conclusions of law that are relevant to the issues presented on the motion to rescind foreclosure sale, including the finding that, prior to the foreclosure sale, Defendant Brock & Scott, PLLC was aware of the pending lawsuit involving the subject Property and the Order Granting Temporary Injunction enjoining the sale of the Property entered on September 7, 2017, and the conclusion that the September 7, 2017 temporary injunction was binding on Defendant Brock and Scott as Substitute Trustee and that it had notice of the injunction. Based on the Court's December 19, 2018 Order, the record in this case contains "'some evidence of irregularity, misconduct, fraud or unfairness'" on the part of Defendant Brock & Scott, as Substitute Trustee, in connection with the foreclosure sale of the Property, making relief by rescission appropriate and returning the parties to their respective positions immediately prior to the May 24, 2018 foreclosure sale. *See Young v. Bank One, N.A.*, 2004 WL 2098284 at *1, No. M2003-01359-COA-R3-CV (Tenn. Ct. App. Sept. 20, 2004), *perm. app. denied*, (Tenn. 2005) (quoting *Holt v. Citizens Central Bank*, 688 S.W.2d 414, 416 (Tenn. 1984)).

3. Defendants Brock & Scott, PLLC and Patrick Taggart, Defendant Byron Wells, and Plaintiffs further agree that the Substitute Trustee's Deed dated May 24, 2018 relating to the Property and recorded with the Office of the Register of Deeds of Davidson County, Tennessee as Instrument No. 20180604-0053201 should be declared null and void and of no effect.

4. Defendants Brock & Scott, PLLC and Patrick Taggart, Defendant Byron Wells, and Plaintiffs further agree that the Deed of Trust dated May 9, 2005 relating to the Property and recorded with the Office of the Register of Deeds of Davidson County, Tennessee as Instrument No. 20050517-0055707 should be reinstated as a valid lien on the Property.

5. Defendants Brock & Scott, PLLC and Patrick Taggart, Defendant Byron Wells, and Plaintiffs further agree that the purchase price of the Property paid at the foreclosure sale by Defendant Byron Wells should be returned to him in full, to be paid by Brock & Scott, PLLC promptly upon recording a certified copy of this Memorandum and Order with the Office of the Register of Deeds of Davidson County, Tennessee.

6. Plaintiffs oppose Defendant Brock & Scott, PLLC's request to dissolve the Temporary Injunction previously entered by this Court on September 7, 2017. Based on the Court's reasons set forth in the prior Order Granting Temporary Injunction, the request to dissolve the Temporary Injunction should be denied at this time, and the Temporary Injunction should remain in effect; provided that Plaintiffs provide an injunction bond with surety in the sum of $3,000.00 within ten (10) days of the date of entry of this Order as required by Rule 65.05 of the Tennessee Rules of Civil Procedure, to secure payment of such costs and damages as may be incurred or suffered by any person who is found to have been wrongfully enjoined.

7. All other orders of this Court previously entered will remain in effect, specifically including the Court's Order entered on September 11, 2018 requiring Plaintiffs "to make

continuing monthly payments of $1,602.35 by check or money order made payable to the Clerk & Master on the first of each month" to be deposited in the Court's Registry pending a determination of the rightful owner of the funds on deposit pursuant to Rule 67 of the Tennessee Rules of Civil Procedure.

It is, accordingly, ORDERED that Defendant Brock & Scott, PLLC's motion to set aside the foreclosure sale of the Property, (commonly known of record as 7309 Smokey Hill Road, Antioch, Tennessee, further identified as Lot 281, Plan of Section Two, Apple Valley, Residential Planned Unit Development, Davidson County, Tennessee), on May 24, 2018 between Brock & Scott, PLLC, as Substitute Trustee, and Byron Wells, as Purchaser, be and hereby is GRANTED, the foreclosure sale of the Property is hereby set aside and rescinded, and the Substitute Trustee's Deed dated May 24, 2018, purporting to convey the Property and recorded with the Office of the Register of Deeds of Davidson County, Tennessee as Instrument No. 20180604-0053201, is declared null and void and of no effect;

It is FURTHER ORDERED that Defendant Brock & Scott, PLLC's motion to reinstate the prior Deed of Trust as a valid lien on the Property be and hereby is GRANTED, and the Deed of Trust signed by Plaintiffs Arthur Ingram Jr. and Brenda W. Ingram, as Borrowers, dated May 9, 2005 and recorded with the Office of the Register of Deeds of Davidson County, Tennessee as Instrument No. 20050517-0055707 is reinstated as a valid lien on the Property; and

It is FURTHER ORDERED that Defendant Brock & Scott, PLLC's motion to dissolve the Order of Temporary Injunction entered on September 7, 2017 be and hereby is DENIED, at this time, and the Order of Temporary Injunction entered on September 7, 2017 shall remain in effect; provided that Plaintiffs provide an injunction bond pursuant to Rule 65.05 of the

Tennessee Rules of Civil Procedure in the amount of $3,000.00 within ten (10) days of the date of entry of this Order; and

It is FURTHER ORDERED that all other orders of this Court previously entered remain effective, specifically including the Court's Order entered September 11, 2018, pending further orders of the Court.

All other matters are reserved.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF ORIGINAL INSTRUMENT FILED IN MY OFFICE
THIS 15th DAY OF March 2019
MARIA M. SALAS, CLERK & MASTER
BY Chelsea R. Lubbs
DEPUTY

Patricia Head Moskal
PATRICIA HEAD MOSKAL, CHANCELLOR
CHANCERY COURT, PART I

CERTIFICATION OF SERVICE BY THE CLERK

A copy of this order has been served by U. S. Mail upon all parties and/or their counsel named below along with a courtesy copy by email.

Beth Weeks 3/8/19

Deputy Clerk and Master Date

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TRUE COPY CERTIFICATION

I, Patrick Taggart, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to the law.

Signature

State of Georgia

County of DeKalb

Personally appeared before me, Deanna Barber a notary public for county and state, Patrick Taggart, who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

My Commission Expires: June 19, 2021

Notary Seal

