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Dav. Co. Chancery Court

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

JENNIE P. HOLT

Plaintiff,

v.

0 BASS AVENUE, NASHVILLE, TN 37211;
SONYA EDWARDS;
MAURICE PETWAY;
DORIS PEAKS PETWAY;
and ALL OTHER UNKNOWN CLAIMANTS

Defendants.

Case No.: 18-1141-I

FILED
2019 JUL 17 PM 3:34
CLERK & MASTER
DAVIDSON CO CHANCERY CT
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Karen Johnson Davidson County
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20190719-0070993

FINAL JUDGMENT

This matter came before the Court on Plaintiff's Motion for Judgment on the Pleadings or, in the alternative, Motion for Summary Judgment, and Plaintiff's Motion for Default Judgment Against Unknown Claimants Served by Publication. The Court addresses these motions and states its findings of fact and conclusions of law as follows:

I. Plaintiff's Motion for Judgment on the Pleadings.

Plaintiff filed her Complaint on October 19, 2018. On December 20, 2019, the Clerk & Master identified three (3) possible owners or adverse possession claimants regarding the subject property. On January 18, 2019, Plaintiff filed her Amended Complaint naming Defendants Sonya Edwards, Maurice Petway, and Doris Peaks Petway. The Court finds that those three individuals were properly served with process.

On March 13, 2019, Defendants Sonya Edwards, Maurice Petway, and Doris Peaks Petway collectively filed an answer, *pro se*. On April 8, 2019, Plaintiff filed her Motion for Judgment on

and noted it for hearing on May 3. 2019. (Ptm)

the Pleadings. No response to Plaintiff's Motion for Judgment on the Pleadings was filed by Defendants Sonya Edwards, Maurice Petway, and Doris Peaks Petway, and none of the Defendants appeared for the hearing. (Ptm)

Tennessee Rules of Civil Procedure 12.03 provides:

> After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

A motion for judgment on the pleadings "involves the consideration of nothing other than what its title suggests; the motion requests that a court grant judgment based on the pleadings alone." *Local TV Tenn. LLC v. N.Y.S.E. Wolfchase LLC*, No. W2017-00675-COA-R3-CV, 2018 Tenn. App. LEXIS 183, at *9 (Tenn. Ct. App. Apr. 9, 2018) (internal quotations and citations omitted).

When reviewing a motion for judgment on the pleadings, the court, "must accept as true all well-pleaded facts alleged by the defendant and draw all reasonable inferences." *Id.* (internal quotations and citations omitted). Further, the court is required "to treat as false all of a plaintiff's allegations that are denied by the defendant." *Id.* (internal citations and quotations omitted). "Conclusions of law are not admitted, and judgment on the pleadings should not be granted unless the moving party is clearly entitled to judgment." *Id.* at *10 (internal quotations and citations omitted).

Plaintiff seeks title to the subject property, commonly known as 0 Bass Ave., Nashville, TN 37211, primarily on the ground that she is the presumed owner pursuant to T.C.A. § 28-2-109, since she has paid the property taxes for more than twenty (20) years. (Plaintiff's Amended Complaint). Defendants acknowledge that Plaintiff paid the property taxes since at least October of 1995. (Defendants' Answer, p. 1). Based on the Plaintiff's Amended Complaint with exhibits,

and Defendants' Answer thereto, the Court finds that Plaintiff has paid the property taxes on the subject property since 1995. Therefore, pursuant to T.C.A. § 28-2-109, Plaintiff is presumed to be the legal owner of the subject property. Further, the Court finds that because the Defendants concede that they have not paid real property taxes within the past twenty (20) years, they are barred from bringing any action at law or equity claiming a right to the subject property pursuant to T.C.A. § 28-2-110.

Based on the foregoing, Plaintiff's Motion for Judgment on the Pleadings or, in the alternative, Motion for Summary Judgment, is well-taken and is hereby **GRANTED**.

II. Plaintiff's Motion for Default Against Unknown Claimants Served by Publication.

Plaintiff filed a Motion for Service by Publication against any and all unknown claimants. The Court granted Plaintiff's Motion for Service by Publication and entered its Order on April 8, 2019, in which the Court ordered Plaintiff to publish a copy of the Order for Service by Publication in the *Tennessean* for four (4) consecutive weeks. The Court finds, that based upon the Affidavit of Publication and *Tennessean* Excerpts, filed by Plaintiff on May 22, 2019, that Plaintiff complied with the Order for Service by Publication. The Court finds that more than thirty (30) days have elapsed since the last date of publication and no answer or response was filed by any unknown claimants. Therefore, Plaintiff's Motion for Default Against Unknown Claimants Served by Publication is well-taken and is hereby **GRANTED**.

III. Final Orders.

Based on the ~~analysis herein~~ foregoing, it is **ORDERED, ADJUDGED, and DECREED,** that title to the subject property shall vest in Plaintiff. Plaintiff is, and shall be, the sole owner in fee simple of the real property commonly known as 0 Bass Ave., Nashville, TN 37211, Map and Parcel 147 07 0 103.00, and further described as follows:

> A lot or parcel of land in the 13th, formerly 23D, civil district of said county, and more particularly described as follows:

Beginning at a point on the East margin of the Hamilton Road, the Southwest corner of the cash lot; running thence Easterly along the South margin of said cash lot 190 feet to a point; then at right angles in a Southwesterly direction 60 feet to a point; thence Westerly in a line parallel with said cash's south line 190 feet to a point on the Easterly margin of Hamilton Road; thence Northerly along said margin of Hamilton Road 60 feet to the point of beginning.

That being the same property conveyed to Harvey E. Curtis and wife, Annie Laura Curtis, by Installment Deed from Effie K. Walton, Trustee, Effie K. Walton and husband, E. B. Walton, recorded on October 9, 1935 as instrument number 62120, having a legal reference number of 00000975-0000235, in the Register's Office for Davidson County, Tennessee.

It is further **ORDERED,** that all defendants, known and unknown, are divested of any right, title, interest, or claim in or to the subject property;

It is further **ORDERED,** that any remaining costs of this action included in the final Bill of Costs prepared by the Clerk shall be taxed to Plaintiff;

It is further **ORDERED,** that this is a final judgment pursuant to Tenn. R. Civ. P. 58.

Entered this 18 day of _____ 2019.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 18 DAY OF Nov 2019
MARIA M. SALAS, CLERK & MASTER
BY _____ DEPUTY

Chancellor Patricia Head Moskal
Davidson County Chancery Court

APPROVED FOR ENTRY:

Brian T. Boyd (#023521)
Bennett J. Wills (#034831)
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Brentwood, TN 37027
(615) 861-1936; (615) 523-2595 Facsimile
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Counsel for Plaintiff

RULE 58 CERTIFICATION
A Copy of this order has been served by U. S. Mail upon all parties or their counsel named above.

Deputy Clerk and Master
Chancery Court
11/17/19
Date

MAIL 11/17/19

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of June 2019, a copy of the foregoing Order was mailed first class postage prepaid to:

Sonya Edwards
4912 Yorkshire Road
Nashville, TN 37211

Maurice Petway
592 Huntington Parkway
Nashville, TN 37211

Doris Peaks Petway
592 Huntington Parkway
Nashville, TN 37211

Bennett J. Wills