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9/20/2022 1:28 PM
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE

Plaintiff,

v.

CATAMOUNT PROPERTIES 2018, LLC; et al.

Defendants.

CATAMOUNT PROPERTIES 2018, LLC,

Counter-Plaintiff,

v.

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE

Counter-Defendant,

and

PHH MORTGAGE CORPORATION, ALTISOURCE SOLUTIONS, INC., REALHOME SERVICES AND SOLUTIONS, INC., PREMIUM TITLE SERVICES, INC., & COURTNEY MITCHELL READ

Third-Party Defendants.

NF
No. 21-0103-IV

FILED
2022 SEP 21 AM 11:56
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
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Karen Johnson Davidson County
Batch# 933656 ORDER
10/25/2022 02:59:57 PM 11 pgs
Fees: $57.00 Taxes: $0.00
20221025-0115766

AGREED ORDER

CAME ON TO BE CONSIDERED the above-numbered and styled cause wherein Plaintiff HSBC Bank USA, National Association, as Trustee for Ace Securities Corp. Home Equity Loan Trust, Series 2006-NC1, Asset Backed Pass-Through Certificates ("Plaintiff" or "HSBC"), who initiated this action, and together with Defendant Catamount Properties 2018, LLC

("Catamount" and together with HSBC, the "Parties"), as shown by the parties' respective signatures below, have agreed to the relief sought in this Agreed Order. Based upon the stipulation of the parties, the Court finds that the following facts, as between the undersigned parties, are undisputed:

1. On May 9, 1978, Howard F. Moore and Ruby Elease Moore, transferred and conveyed to Ricky Edward Isbell and Judy Isbell, via a *Warranty Deed*, the real property located at 8580 Cub Creek Road, Nashville, TN 37209 and more particularly described is said deed as:

> "Beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the J. R. Thomas property and the subject property, thence south 40 degrees 7 minutes east 232.2 feet, to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road south 54 degrees, 30 minutes west 609.2 feet to a point in the center line of said road; thence with said center line south 60 degrees 20 minutes west 325.9 feet to a point in the center line of such road; thence north 20 degrees 20 minutes west 283.1 feet to a point in the center line of a drive; thence north 52 degrees 19 minutes west 190.4 feet to a point in the center line of such drive, which point is north 53 degrees 20 minutes east 8.5 feet from an iron pipe; thence north 53 degrees 20 minutes east 202.5 feet to a hickory tree; thence south 53 degrees 50 minutes east 287.0 feet to an elm tree, such line being coextensive with a portion of an old wire fence; thence north 80 degrees 25 minutes east 123.9 feet to a point in such fence, the fence also extending along such line; thence north 55 degrees 14 minutes east 134.91 feet with such fence, to a point therein; thence along the line of such fence north 43 degrees 51 minutes east 363.0 feet to the point of beginning; containing a net acreage of 5 acres as per survey of Barry Greer and Associates date May 4, 1978, exclusive of right of ways and easements on portions of such property as shown on such survey and at Book 619, page 163, and Book 1011, page 131, said Register's Office.
>
> Being a portion of the same property conveyed to the grantors herein by deed from G. L. Cullum and wife, Nannie Lou Cullum, by deed of record in Book 1414, Page 85, said Register's Office."

This particular parcel of land has been identified as Parcel No. 077 00 0 057.00 by the Davidson County Assessor of Property and will hereinafter be referred to as "Parcel No. 57." This instrument was recorded at Book 5283, Page 989 with the Davidson County Register of Deeds;

2. On August 3, 1979, Howard F. Moore and Ruby Moore transferred and conveyed to Ricky Edward Isbell and Judy Isbell, via a *Warranty Deed*, the real property located at 8594 Cub Creek Road, Nashville, TN 37209 and more particularly described in said deed as:

> "Land in the 8th Civil District, beginning at twin maple trees marking a point in the boundary between the property of Howard F. Moore and Hal Kennedy; thence 33 feet in an easterly direction, to a point in the center line of a drive which is north 53 degrees 20 minutes east 8.5 feet from an iron pipe, which point is a common corner of the property of Lovell C. Lee, Hal Kennedy and the grantees; thence south 52 degrees 19 minutes east 190.4 feet to a point in the center line of such drive; thence south 20 degrees 20 minutes east 283.1 feet to a nail in the center line of Cub Creek Road; thence with the center line of such road south 64 degrees 4 minutes west 100 feet to a nail; thence north 22 degrees 28 minutes west 435.5 feet to the point of beginning; containing one acre, more or less, as per survey of Barry Greer and Associates dated July 23, 1979, exclusive of rights of way and easements shown on such survey and at Book 619, page 163, and Book 1011, page 131, said Register's Office.
>
> Being a portion of the same property conveyed to the grantors herein by deed from G. L. Cullum and wife, Nannie Lou Cullum, of record in Book 1414, page 85, said Register's Office."

This particular parcel of land has been identified as Parcel No. 077 00 0 066.00 by the Davidson County Assessor of Property and will hereinafter be referred to as "Parcel No. 66." This instrument was recorded at Book 5476, Page 956 with the Davidson County Register of Deeds;

3. Also on August 3, 1979, Ricky Edward Isbell and Judy Isbell transferred and conveyed to Albert G. Webber and Betty Ann Webber, via a *Warranty Deed*, a one acre portion of Parcel 57. The legal description contained in said deed for this one acre parcel is as follows:

> Land in the 8th Civil District, beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the former J. R. Thomas (now Betty Ann Webber, the former Mrs. J. R. Thomas) property, and the subject property; thence South 40 degrees 7 minutes East 232.2 feet to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road South 54 degrees 30 minutes West 212 feet to a point in such center line: thence North 40 degrees 7 minutes West 192.80 feet to a point in an old wire fence; thence with said fence North 43 degrees 51 minutes East 212.48 feet to the point of beginning; containing one acre, more or less, as per survey of Barry Greer

> and Associates dated July 23, 1979, exclusive of rights of way and easements as shown on such survey and at Book 619, page 163, and Book 1011, Page 131, in the Register's Office of Davidson County, Tennessee.
>
> Being a portion of the same property conveyed to the grantors herein by deed from Howard F. Moore and wife, Ruby Elease Moore, of record in Book 5283, page 989 said Register's Office.

This particular parcel of land has been identified as Parcel No. 077 00 0 058.00 by the Davidson County Assessor of Property and will hereinafter be referred to as "Parcel No. 58." This instrument was recorded at Book 5476, Page 959 with the Davidson County Register of Deeds;

4. Pursuant to a divorce decree entered August 20, 1985, Judy Ann Isbell conveyed Parcel 57 to Ricky Edward Isbell. This instrument was recorded at Book 6635, Page 541 with the Davidson County Register of Deeds;

5. The divorce decree, however, failed to include the less and except clause for Parcel 58 that was deeded to Albert G. Webber and Betty Ann Webber. The proper legal description that should have been included in the divorce decree is as follows:

> "Beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the J. R. Thomas property and the subject property, thence south 40 degrees 7 minutes east 232.2 feet, to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road south 54 degrees, 30 minutes west 609.2 feet to a point in the center line of said road; thence with said center line south 60 degrees 20 minutes west 325.9 feet to a point in the center line of such road; thence north 20 degrees 20 minutes west 283.1 feet to a point in the center line of a drive; thence north 52 degrees 19 minutes west 190.4 feet to a point in the center line of such drive, which point is north 53 degrees 20 minutes east 8.5 feet from an iron pipe; thence north 53 degrees 20 minutes east 202.5 feet to a hickory tree; thence south 53 degrees 50 minutes east 287.0 feet to an elm tree, such line being coextensive with a portion of an old wire fence; thence north 80 degrees 25 minutes east 123.9 feet to a point in such fence, the fence also extending along such line; thence north 55 degrees 14 minutes east 134.91 feet with such fence, to a point therein; thence along the line of such fence north 43 degrees 51 minutes east 363.0 feet to the point of beginning; containing a net acreage of 5 acres as per survey of Barry Greer and Associates date May 4, 1978, exclusive of right of ways and easements on portions of such property as shown on such

survey and at Book 619, page 163, and Book 1011, page 131, said Register's Office.

INCLUDED BUT EXPRESSLY EXCLUDED from the above conveyance is the following sell-off to Albert G. Webber and wife, Betty Ann Webber from Ricky Edward Isbell and wife, Judy Isbell, by Warranty Deed dated August 3, 1979 and being of record in Book 5476, Page 959 in the Register's Office of Davidson County, Tennessee.

Land in the 8th Civil District, beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the former J. R. Thomas (now Betty Ann Webber, the former Mrs. J. R. Thomas) property, and the subject property; thence South 40 degrees 7 minutes East 232.2 feet to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road South 54 degrees 30 minutes West 212 feet to a point in such center line: thence North 40 degrees 7 minutes West 192.80 feet to a point in an old wire fence; thence with said fence North 43 degrees 51 minutes East 212.48 feet to the point of beginning; containing one acre, more or less, as per survey of Barry Greer and Associates dated July 23, 1979, exclusive of rights of way and easements as shown on such survey and at Book 619, Page 163, and Book 1011, Page 131, in the Register's Office of Davidson County, Tennessee.

Being a portion of the same property conveyed to Ricky Edward Isbell and wife, Judy Isbell, from Howard F. Moore and wife, Ruby Elease Moore, by Warranty Deed dated May 9, 1978 and being of record in Book 5283, Page 989 in the Register's Office of Davidson County, Tennessee.

6. On April 21, 1989, Judy Ann Isbell conveyed Parcel 66 to Ricky Edward Isbell via a *Quitclaim Deed.* This instrument was recorded at Book 7826, Page 427 with the Davidson County Register of Deeds. Thus, on that date both Parcel 57 and Parcel 66 were deeded in favor of Ricky Edward Isbell;

7. On September 14, 2005, Ricky Edward Isbell executed a *Warranty Deed* whereby he conveyed Parcel 57 to himself and second wife, Janet Isbell. Although this instrument contains the Map/Parcel number for Parcel 57 and the corresponding street address of 8580 Cub Creek Road, the legal description contained in the instrument describes Parcel 66. This instrument was recorded as Instrument No. 20060109-0002715 with the Davidson County Register of Deeds;

8. On July 23, 2005, Ricky Edward Isbell and Janet R. Isbell executed a certain *Adjustable Rate Note* (the "Note") in the original principal amount of $168,300.00 payable to Nationwide Lending Corporation ("Nationwide");

9. Concurrently with the Note, Ricky Edward Isbell and Janet R. Isbell executed a *Deed of Trust* (the "Deed of Trust" and together with the Note, the "Loan") in favor of Nationwide Lending Corporation ("Nationwide"), whereby they granted Nationwide a security interest in Parcel 57. Page 3 of this instrument states that the secured property has a street address of 8580 Cub Creek Road and a Map/Parcel number associated with Parcel 57;

10. The derivation clause in the Deed of Trust states that the borrower's interest is derived from the *Warranty Deed* executed by Ricky Edward Isbell in 2005, recorded as Instrument No. 20060109-0002715. The legal description contained in the Deed of Trust describes Parcel 66, but the exhibit also mentions Parcel No. 57 and states that the source of title is the *Quitclaim Deed*, recorded at Book 7826, Page 427 with the Davidson County Register of Deeds;

11. Nationwide, through its nominee, Mortgage Electronic Registration Systems, Inc., assigned the Deed of Trust to New Century Mortgage Corporation ("New Century") as evidenced by the *Corporate Assignment of Deed of Trust* that was recorded as Instrument No. 20171005-0102456 with the Davidson County Register of Deeds;

12. New Century assigned the Deed of Trust to Deutsche Bank Trust Company Americas, as Trustee and Custodian for HSBC Bank USA, NA ACE 2006-1 NC1 ("Deutsche Bank") as evidenced by the *Assignment of Deed of Trust* that was recorded as Instrument No. 20070117-0006522 with the Davidson County Register of Deeds;

13. Deutsche Bank assigned the Deed of Trust to Plaintiff as evidenced by the *Assignment of Deed of Trust* that was recorded as Instrument No. 20131223-0128946 with the Davidson County Register of Deeds;

14. HSBC is the current owner and holder of the Note, and beneficiary of the Deed of Trust at the time of the foreclosure sale;

15. Ricky Edward Isbell died on February 15, 2014. By operation of law, upon his death, all rights, title and interest that he possessed in Parcel 57 passed to his wife Janet Isbell;

16. Defendants Michael E. Moore and Mark E. Moore are the grandsons of Ricky E. Isbell;

17. A foreclosure sale was held on January 2, 2020. HSBC was the highest and best bidder at the sale and the substitute trustee conveyed Parcel 57 to HSBC as evidenced by the *Substitute Trustee's Deed*, which was recorded as Instrument No. 20200108-0002491 with the Davidson County Register of Deeds;

18. HSBC then conveyed Parcel 57 to Catamount Properties 2018, LLC via a *Special Warranty Deed*, which was recorded as Instrument No. 20200811-0089128 with the Davidson County Register of Deeds.

It is therefore:

ORDERED, ADJUDGED AND DECREED, as between the Parties, that the *Special Warranty Deed*, recorded as Instrument No. 20200811-0089128, is hereby reformed to contain the legal description for Parcel 57 as follows:

> "Beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the J. R. Thomas property and the subject property, thence south 40 degrees 7 minutes east 232.2 feet, to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road south 54 degrees, 30 minutes west 609.2 feet to a point in the center line of said road; thence with said center

line south 60 degrees 20 minutes west 325.9 feet to a point in the center line of such road; thence north 20 degrees 20 minutes west 283.1 feet to a point in the center line of a drive; thence north 52 degrees 19 minutes west 190.4 feet to a point in the center line of such drive, which point is north 53 degrees 20 minutes east 8.5 feet from an iron pipe; thence north 53 degrees 20 minutes east 202.5 feet to a hickory tree; thence south 53 degrees 50 minutes east 287.0 feet to an elm tree, such line being coextensive with a portion of an old wire fence; thence north 80 degrees 25 minutes east 123.9 feet to a point in such fence, the fence also extending along such line; thence north 55 degrees 14 minutes east 134.91 feet with such fence, to a point therein; thence along the line of such fence north 43 degrees 51 minutes east 363.0 feet to the point of beginning; containing a net acreage of 5 acres as per survey of Barry Greer and Associates date May 4, 1978, exclusive of right of ways and easements on portions of such property as shown on such survey and at Book 619, page 163, and Book 1011, page 131, said Register's Office.

INCLUDED BUT EXPRESSLY EXCLUDED from the above conveyance is the following sell-off to Albert G. Webber and wife, Betty Ann Webber from Ricky Edward Isbell and wife, Judy Isbell, by Warranty Deed dated August 3, 1979 and being of record in Book 5476, Page 959 in the Register's Office of Davidson County, Tennessee.

Land in the 8th Civil District, beginning at a stake 5 feet S.W. of a walnut tree, a common corner of the former J. R. Thomas (now Betty Ann Webber, the former Mrs. J. R. Thomas) property, and the subject property; thence South 40 degrees 7 minutes East 232.2 feet to a p. k. nail in the center line of Cub Creek Road; thence with the center line of said road South 54 degrees 30 minutes West 212 feet to a point in such center line: thence North 40 degrees 7 minutes West 192.80 feet to a point in an old wire fence; thence with said fence North 43 degrees 51 minutes East 212.48 feet to the point of beginning; containing one acre, more or less, as per survey of Barry Greer and Associates dated July 23, 1979, exclusive of rights of way and easements as shown on such survey and at Book 619, Page 163, and Book 1011, Page 131, in the Register's Office of Davidson County, Tennessee.

Being a portion of the same property conveyed to Ricky Edward Isbell and wife, Judy Isbell, from Howard F. Moore and wife, Ruby Elease Moore, by Warranty Deed dated May 9, 1978 and being of record in Book 5283, Page 989 in the Register's Office of Davidson County, Tennessee."

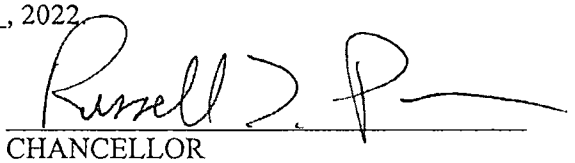
ORDERED, ADJUDGED AND DECREED that Catamount Properties 2018, LLC is the sole owner of Parcel 57 and that Defendants Janet Isbell; Michael E. Moore and Mark E. Moore, and any unknown heirs of Ricky Isbell have no right, title, or interest in Parcel 57 whatsoever;

ORDERED, ADJUDGED AND DECREED that this Order may be recorded with the Davidson County Register of Deeds and cross-referenced with the above-mentioned recorded documents;

ORDERED, ADJUDGED AND DECREED that Catamount's counterclaim for rescission is hereby dismissed as MOOT;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, there being no just reason for delay, this Order is designated as a final judgment on HSBC's claims for declaratory judgment and reformation pursuant to Rule 54.02 of the Tennessee Rules of Civil Procedure. The only remaining claims are crossclaims asserted by Defendant Catamount Properties 2018, LLC against HSBC and PHH Mortgage Corporation for breach of contract and unjust enrichment. There are no overlapping issues with these remaining claims that might merit consideration at a later time in this case, nor would any review be mooted by future developments in this case. There is likewise no set-off that could result between the claims. Finally, economic, delay, and expense considerations merit rendering a final judgment in favor of Defendants, which are currently postponing moving forward with foreclosure pending a final judgment in their favor. Accordingly, the Court hereby certifies this Order as a final judgment on HSBC's claims for declaratory judgment and reformation.

ENTERED this _____ day of _____, 2022.



CHANCELLOR

Approved for Entry:

/s/ Benjamin W. Perry

Benjamin W. Perry (BPR No. 34387)
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Attorney for Plaintiff HSBC Bank USA, N.A., as Trustee for the ACE Securities Corp. Home Equity Loan Trust, Series 2006-NC1, Asset Backed Pass-Through Certificates and PHH Mortgage Corporation

/s/ Marshall T. Cook (with permission)

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Attorneys for Catamount Properties 2018, LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via U.S. mail, first class postage prepaid on the following this 20th day of September, 2022:

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Pro se defendant

Janet Renee Isbell
1608 Comanche Run
Madison, TN 37115
Pro se defendant

/s/ Benjamin W. Perry
Benjamin W. Perry

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL INSTRUMENT FILED IN MY OFFICE
THIS 24th DAY OF October 2022
MARIA M. SALAS, CLERK & MASTER
BY Christy Smith DEPUTY