

283

THOMPSON PROPERTIES 122 AA  
056 LTD., etc.

PLAINTIFF

VS.

RON ROCKHILL, et al

DEFENDANTS

CIRCUIT COURT, TENTH JUDICIAL

CIRCUIT OF ALABAMA

EQUITY DIVISION

CASE NO. CV 88 501-575 JDC

PRELIMINARY INJUNCTION

This cause came on to be heard on May 17, 1988, upon the request for preliminary injunction contained in the Plaintiff's verified Complaint, as amended, and upon testimony and other evidence presented in Open Court. Based upon the pleadings and evidence as aforesaid, the Court finds and determines that there is a likelihood that Plaintiff will prevail on the merits of the claims for which it seeks preliminary injunctive relief, and that if a preliminary injunction, as requested, is not issued, the Plaintiff will suffer irreparable harm, injury and damage for the reasons hereinafter set forth. Specifically, the Court finds and determines that there is a likelihood that the Plaintiff will prevail at a trial on the merits on the claim that Defendant, Ron Rockhill, breached a fiduciary duty owed to the Plaintiff in the sale of property owned by the Plaintiff and that various of the other Defendants knew in advance of the breach of the fiduciary duty by Rockhill and that they participated in such action.

If the Plaintiff prevails on the merits of its claims, Defendants, McCalla Land Company, Inc., and Eastern Valley Trading Company, Inc. may hold title to their respective one-half interest in Plaintiff's real estate, as constructive trustees for the use and benefit of the Plaintiff, and said constructive trusts would continue upon the traceable proceeds of the sale of Plaintiff's real estate and upon real and personal property purchased by the Defendants with the proceeds of the sale of Plaintiff's real estate.

The real estate, personal property and bank accounts enumerated in the injunctive portion of this Order represent the proceeds of the sale of Plaintiff's real estate and property purchased with the proceeds of Plaintiff's real estate.

BOOK 376 PAGE 826

*Donnell, Fletcher*

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED  
as follows:

(a) Defendants, McCalla Land Company, Inc; John H. Eason; Gary L. Thompson and Dorothy P. Thompson; and all persons in active concert or participation with them who receive actual notice of this Order are prohibited, pending further orders of this Court, from withdrawing, transferring, pledging, disposing of, or secreting the proceeds of the sale of the Plaintiff's real estate remaining in the possession and/or control of said Defendants, and from selling, transferring, mortgaging, encumbering, disposing of, or secreting any items of real or personal property purchased by them, or for them, with the proceeds received by said Defendants from the sale of the Plaintiff's real estate, including but not limited to, the following:

(1) Any sum remaining in Account Number 0200019208 at First Commercial Bank, Birmingham, Alabama, in the name of Thompson Properties, Inc.;

(2) Lots 3, 11, 17, 18, 19, 21 and 28, according to the Survey of Heritage Place as recorded in the office of the Judge of Probate of Jefferson County, Alabama, in Map Book 146, Page 59;

(3) Commence at the Southeast corner of the SW 1/4 of the NE 1/4 of Section 16, Township 17 South, Range 1 West; thence North along said 1/4 line 156.80 feet to the point of beginning; thence continue along same course 1144.22 feet; thence 89 deg. 01 min. 52 sec. left, 765.09 feet; thence 90 deg. 03 min. 21 sec. left, 488.25 feet; thence 63 deg. 34 min. 46 sec. left, 208.50 feet; thence 42 deg. 40 min. 42 sec. right, 273.29 feet; thence 33 deg. 04 min. 01 sec. left, 153.70 feet; thence 97 deg. 17 min. 07 sec. right, 228.79 feet; thence 87 deg. 11 min. 22 sec. right, 279 70 feet; thence 72 deg. 48 min. 59 sec. left, 52.34 feet; thence 112 deg. 11 min. 18 sec. left, 342.64 feet; thence 34 deg. 47 min. 22 sec. left, 509.76 feet to the point of beginning; being situated in Jefferson County, Alabama. Subject to right of way for Rock Ridge Road.

(b) Defendant, First Commercial Bank, as Trustee of that certain trust created by Exchange Intermediary, Inc. for the use and benefit of Defendants, McCalla Land Company, Inc., and John H. Eason,

BOOK 376 PAGE 827

among others, is hereby prohibited from transferring or otherwise disposing of the funds in said account pending further orders of this Court.

(c) Defendant, Larry Guy, as Trustee of the trust created by Exchange Intermediary, Inc., for use and benefit of Eastern Valley Trading Company, Inc., Defendants, Eastern Valley Trading Company, Inc., and Ron Rockhill, and all persons in active concert or participation with them, who receive actual notice of this Order are prohibited, pending further orders of this Court, from withdrawing, transferring or disposing of, or secreting the proceeds of the sale of Plaintiff's real estate remaining in the control of Defendant, Larry Guy, as Trustee, or otherwise, and from selling, transferring or disposing of, or secreting any items of real or personal property purchased by or for them with the proceeds received by said Defendants from the sale of Plaintiff's real estate, including, but not limited to the following:

(1) Lot 22, Quail Run, Phase 2, as recorded in Map Book 7, Page 113, in the office of the Judge of Probate of Shelby County, Alabama;

(2) Unit C-706 of Moonspinner Apartment Condominium situated in Bay County, Florida, as described in the condominium agreement recorded in Official Record Book 852, Page 472, as amended by agreement recorded in Official Record Book 864, Page 429 in the Public Records of Bay County, Florida. It was represented to the Court by Defendant, Larry Guy, that title to the above described property was erroneously taken in the name of Defendant, Eastern Valley Trading Company, Inc., rather than in the name of Defendant, Larry Guy, as Trustee, and that this error was in the process of being corrected. Correction of this error shall not be deemed a violation of this Order.

(3) Account at National Bank of Commerce, Birmingham, Alabama, in the name of Larry Guy as Trustee under Trust Agreement dated March 31, 1988, as established by Exchange Intermediary, Inc. and containing the approximate sum of \$78,668.94.

(4) One (1) Sportsraft boat (with motor, if applicable) Model #2205FF, Serial #90031A585.

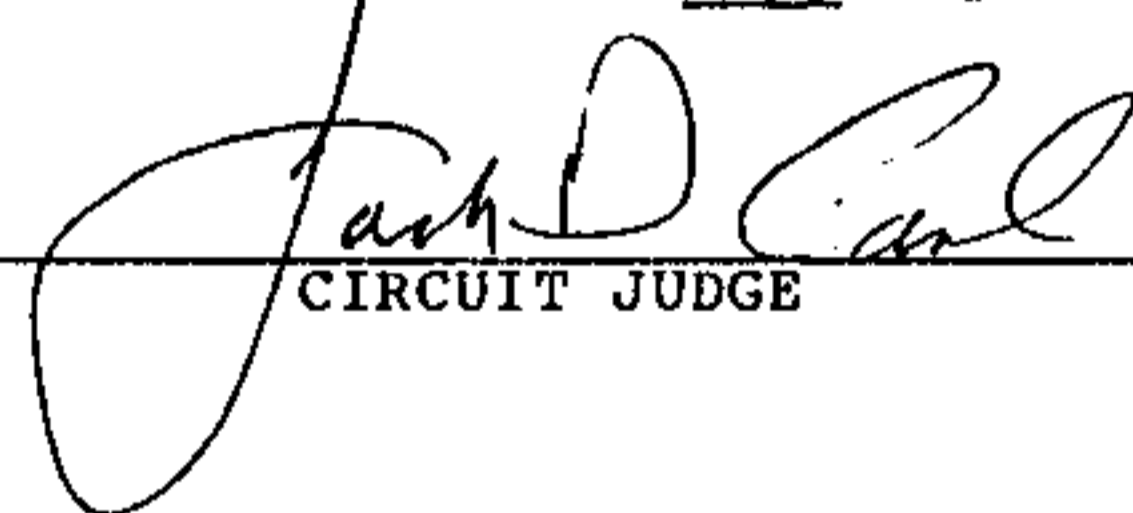
It is further ordered that this injunction shall not issue

Page Four  
Preliminary Injunction  
Case No. CV 88 501-575 JDC

until Plaintiffs have first deposited with the Register of this court a bond or cash security to be approved by the Register of the court in the amount of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) for the payment of such costs, damages and reasonable attorneys' fees as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained by this order. The security used for the "Temporary Restraining Order" may be used as the security for the "Preliminary Injunction" if approved by the Register.

Copies of this "Preliminary Injunction" shall be immediately served by the Sheriff or a duly appointed process server upon the Defendants in this cause, and certification made to the Court immediately thereafter that service has been perfected.

DONE and ORDERED this 23<sup>rd</sup> day of May, 1988.

  
CIRCUIT JUDGE

COPIES TO:

J. Fred Wood, Jr., Attorney  
Carleton P. Ketcham, Jr., Attorney  
P. O. Box 1387  
Birmingham, Alabama 35201

Michael Wright, Attorney  
1800 City Federal Building  
Birmingham, Alabama 35203

Robert E. Cooper, Attorney  
Michael B. Maddox, Attorney  
1700 Financial Center  
Birmingham, Alabama 35203

Michael C. Quillen, Attorney  
1900 First National-So. Natural Bldg.  
Birmingham, Alabama 35203

Phillip G. Stutts, Attorney  
425 First Alabama Bank Building  
Birmingham, Alabama 35203

Robert M. Couch, Attorney  
2000 Southbridge Parkway  
Birmingham, Alabama 35209

William W. Conwell, Attorney  
2015 North 2nd Avenue  
Birmingham, Alabama 35203

William W. Brooke, Attorney  
Southbridge Building, Suite 525  
2000 Southbridge Parkway  
Birmingham, Alabama 35209

Bond taken and approved  
this 23 day of May, 1988.

D. L. Cookrell  
Register

STATE OF ALA. SHERIFF  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 DEC -9 PM 2:44

JUDGE OF PROBATE

1. Deed Tax	\$	
2. Mig. Tax	\$	
3. Recording Fee	\$	70.00
4. Indexing Fee	\$	3.00
5. No Tax Fee	\$	
6. Certified Fee	\$	1.00
Total	\$	74.00

BOOK 376 PAGE 829