

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

JUNE B. PYBURN,

Plaintiff,

v.

ALABAMA OUTDOOR
ADVERTISING, INC., et al.,

Defendant.

CIVIL ACTION NO. CV-96-322



ORDER

This matter came on for hearing, non-jury, on the claim of Charles H. Stephens ("Stephens"), intervenor herein, that the deed should be reformed to correct an area in the description of property conveyed to June B. Pyburn ("Pyburn"), Plaintiff herein. Stephens and Pyburn, on trial of this case, announced that they had settled their dispute, *pro-tanto*, with Pyburn reserving all claims that she has against all others, including all claims that Pyburn has against Alabama Outdoor Advertising, Inc., Defendant herein. Provided, however, the Pyburn releases all claims for rents that have been paid by Alabama Outdoor to Stephens for periods preceding this agreement.

Based thereon, this Court finds and Orders as follows:

Stephens, on or about the 22nd day of May 1990, deeded the realty to Pyburn that is described as follows:

Commence at the Northeast corner of the S.W. 1/4 of the N.E.1/4 of Section 6, Township 20 South, Range 2 West, Shelby County, Alabama;
Thence run South along the east 1/4-1/4 line 218.68 feet to the northwest right-of-way of Interstate Highway 65,
Thence run South 44 deg. 33 min. 12 sec. West (Chord) along the arc of a clockwise curve having a delta angle of 02 deg. 30 min. 22 sec. and a radius of 2684.79 feet, a

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distance of 117.42 feet (Chord);

Thence run South 45 deg. 48 min. 232 sec. West 232.58 feet along said right-of-way to the point of beginning:

Thence continue last course 417.62 feet along said right-of-way,

Thence run South 41 deg. 52 min. 08 sec. West 233.56 feet along said right-of-way,

Thence run North 47 deg. 09 min. 56 sec. West 156.22 feet to a point 10 feet northwest of the top of a bank:

Thence run northeast the following bearings and distances which are approximately 10 feet northwest of the top of said bank:

North 49 deg. 07 min. 36 sec. East 88.64 feet,

North 41 deg. 52 min. 08 sec., East 45.00 feet,

North 64 deg. 26 min. 41 sec. East 306.41 feet,

North 45 deg. 48 min. 23 sec. East 200.00 feet,

Thence run North 25 deg. 53 min. 53 sec. West 75.60 feet to a point on the centerline of Oak Mountain State Park Road, said point being on a counter-clockwise curve having a delta angle of 06 deg. 08 min. 48 sec. and a radius of 932.16 feet,

Thence run North 52 deg. 23 min. 04 sec. East 99.99 feet (Chord),

Thence run South 02 deg. 55 min. 50 sec. East 133.47 feet to the point of beginning.

Less and Except that part lying within the right-of-way of said State Park Road.

Pyburn, as part of the consideration for said conveyance, signed a note in favor of Stephens and executed a mortgage on said realty to secure payment of said note.

2. Stephens, on or about said 22nd day of May 1990, granted Pyburn an option to purchase the realty that is described as follows:

Commence at the Northeast corner of the S.W. 1/4 of the N.E. 1/4 of Section 6, Township 20 South, Range 2 West, Shelby County, Alabama; Thence run South along the east 1/4-1/4 line 61.92 feet to a point on the centerline of Oak Mountain State Park Road.

Thence run South 42 deg. 33 min. 00 sec. West 261.70 feet along said centerline to the point of a clockwise curve having a delta angle of 24 deg. 53 min. 00 sec and a radius of 932.16 feet.

Thence run southwest along the arc of said curve 210 feet to the point of beginning:

Thence continue southwest along the arc of said curve 194.83 feet.

Thence run South 67 deg. 26 min. 00 sec. West 171.43 feet.

Thence run South 22 deg. 34 min. 00 sec. East 50.00 feet to a point on a counter-clockwise curve having a delta angle of 16 deg. 20 min. 51 sec. and a radius of 1041.74 feet.

Thence run Southwest along the arc of said curve 297.23 feet .

Thence run South 47 deg. 09 min. 56 sec. E0.172413793 East 110 feet to a point 10

feet northwest of the top of a bank:

Thence run northeast the following bearings and distances which are approximately 10 feet northwest of the top of said bank:

North 49 deg. 07 min. 36 sec. East 88.64 feet.

North 41 deg. 52 min. 08 sec. East 45.00 feet.

North 64 deg. 26 min. 41 sec. East 306.41 feet.

North 45 deg. 48 min. 23 sec. East 200.00 feet.

Thence run North 25 deg. 53 min. 53 sec. West 75.60 feet to the point of beginning.

Less and Except that part lying within the right-of-way of said State Park Road.

3. A dispute has existed between Stephens and Pyburn regarding the boundary line between the property conveyed, that property described in paragraph 1 hereof, and the option property, that property described in paragraph 2 hereof. In addition, a dispute has existed between Stephens and Pyburn regarding the intent of the parties regarding the description in the deeded property and the option property. Stephens and Pyburn, in settlement of this dispute *pro-tanto*, covenant and agree as follows:
 - a. Pyburn shall pay Stephens the sum of \$110,000.
 - b. Stephens conveys all of his interest in the property deeded and the option property, all property described in paragraph 1 and 2 above, and warrants that said property is free and clear of any incumbrance, except as reserved below:
 - 1) Stephens has contracted with Alabama Outdoor regarding the construction and maintenance of a sign or billboard and Stephens agreement with Alabama Outdoor runs with the property.
 - 2) Stephens does not warrant that title has not been encumbered by some act of Pyburn.
4. Pyburn and Stephens release each other from any and all claims that either of them has against the other, including but not limited to any claims that Stephens has against Pyburn for payment of the note that is secured by said mortgage.
5. Fee Simple title, free of encumbrances not noted herein, is conveyed by Stephens to

Pyburn in the following described property:

A tract of land situated in the Southwest Quarter of the Northeast Quarter of Section 6, Township 20 South, Range 2 West; Shelby County, Alabama, between Oak Mountain Road and Interstate Highway No. 65 and being more particularly described as follows: Commence at the Northeast corner of Southwest Quarter of the Northeast Quarter of said Section 6; thence run South along the East line of quarter-quarter section a distance of 61.29 feet to the point of beginning in the center of Oak Mountain Road, thence continue South along said line a distance of 156.76 feet to a point on the West right of way line of Interstate Highway No. 65; thence an angle right of 44 degrees, 32 minutes, 34 seconds to tangent of a curve to the right said curve having a radius of 2684.79 feet, and subtending a central angle of 2 degrees, 30 minutes, 22 seconds; thence run in a Southwesterly direction along the arc of said curve a distance of 123.02 feet; thence on a line tangent to curve; run in a Southwesterly direction along right of way line a distance of 650.20 feet; thence 3 degrees, 56 minutes, 15 seconds left and continue in a Southwesterly direction a distance of 223.56 feet to a point, said point being at a station of 221+00 of Interstate Highway No. 65; thence 90 degrees right and run Northwest a distance of 266.22 feet to the East right of way of Oak Mountain Road, thence an angle right of 99 degrees, 13 minutes, 39 seconds to tangent of a curve to the right, said curve having a radius of 1041.74 feet and subtending a central angle of 16 degrees, 20 minutes, 51 seconds; thence run along arc of said curve a distance of 294.64 feet; thence 90 degrees left to tangent and run Northwest 50.0 feet to the centerline of Oak Mountain Road; thence 90 degrees right and run Northeast a distance of 171.43 feet to the beginning of a curve to the left, said curve having a radius of 932.16 feet and subtending a central angle of 24 degrees, 53 minutes; thence run Northeast along the arc of said curve a distance of 404.83 feet; thence on a line tangent to curve, run in a Northeasterly direction along the centerline of Oak Mountain Road a distance of 261.70 feet to the point of beginning. Situated in Shelby County, Alabama.

No deed is required and this Order shall be considered as conveying title to Pyburn in said property.

6. Stephens and Pyburn agree that, should any interested party require that any document be executed to fully convey fee simple title in said property to Pyburn and to release the parties from any liability that either of them might have against the other, they will execute such documents.

7. This Order is *pro-tanto* only and Pyburn specifically reserves all claims that she has against all parties and other entities not specifically released herein, including all claims that she has against Alabama Outdoor, exclusive of her claim for back rent. Pyburn specifically reserves her claim that Alabama Outdoor trespassed on her property and all factual contentions on which said contention is based, including her contention that Alabama Outdoor should, alternatively, acknowledge her interest in the property conveyed and pay rents to her or refrain from trespassing on her property in servicing the sign.

DONE AND ORDERED this 29th day of June 1998.

A. McCarson
Circuit Judge

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Certified a true and correct copy

Date: August 4, 1998

Dan Reeves, TK
Dan Reeves, Circuit Clerk
Shelby County, Alabama