

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

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MARY H. HARRIS

NOV 01 2007

CIRCUIT & DISTRICT  
COURT CLERK  
SHELBY CO.

James R. Payton,

Plaintiff

v.

Case No. CV 2006-1237

AmSouth Bank as Trustee  
for Theron Oscar Cox, Jr.  
Revocable Trust and  
Teresa Cox Kirkwood,

Defendants

ORDER

This cause came on for non-jury trial on the 1<sup>st</sup> day of October, 2007. Present and representing the defendants was Mary Douglas Hawkins. The plaintiff's counsel and the plaintiff failed to appear. This cause was submitted to the Court on the pleadings and the Affidavit of Mary Douglas Hawkins dated October 17, 2007.

Defendants' counsel orally moved the Court to dismiss plaintiff's Complaint for want of prosecution.

This Court GRANTS defendants' Motion, and plaintiff's Complaint is hereby dismissed with prejudice.

Defendants' counsel orally moved the Court for a default judgment on defendants' Counterclaim for failure of plaintiff to answer said Counterclaim.

The Court GRANTS defendants' Motion, and the defendants are hereby granted certain specific relief sought in their counterclaim.

It is, therefore, ORDERED and ADJUDGED by the Court as follows:

1. The Real Estate Sales Contract by and between plaintiff and defendants is hereby terminated and held to be null and void and of no force and effect.
2. The earnest money in the amount of \$25,000.00 held by Corretti, Newsom & Hawkins shall be delivered to and retained by defendants, AmSouth Bank as Trustee for Theron Oscar Cox, Jr. Revocable Trust and Teresa Cox Kirkwood.
3. The Lis Pendens heretofore filed in this cause in Instrument No. 20060921000470000 in the office of the Judge of Probate of Shelby County, Alabama is hereby released, terminated and discharged and stricken from the Public Records in said Probate Office.
4. Defendants' counsel is hereby awarded an attorney's fee in the amount of \$6,412.50.
5. A copy of this Order shall be filed for record in said Probate Office by defendants and at defendants' cost.
6. Court costs incurred in this cause are hereby assessed and taxed against plaintiff.

DONE AND ORDERED this 22nd day of October, 2007.



G. Daniel Reeves  
Circuit Judge

12/7/07  
Mary A. Hawkins TC