


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION


20091006000378070 1/8 \$32.00
Shelby Cnty Judge of Probate, AL
10/06/2009 11:11:18 AM FILED/CERT

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:08-cv-01987-WMA

CERTAIN REAL PROPERTY
LOCATED AT 149 ELDER DRIVE,
ALABASTER, ALABAMA, TOGETHER
WITH ALL IMPROVEMENTS,
FIXTURES, AND APPURTENANCES
THEREON,

Defendants.

AMENDED CONSENT JUDGMENT AND ORDER OF FORFEITURE

The plaintiff United States of America filed the above-styled civil action, pursuant to 8 U.S.C. § 1324(b) and 18 U.S.C. § 981(a)(1)(C), seeking the civil forfeiture in rem of the defendant real property, located at 149 Elder Drive, Alabaster, Alabama, together with all improvements, fixtures, and appurtenances thereon.

Plaintiff, claimant Don Armstrong, as Property Tax Commissioner for Shelby County, Alabama, and Regions Bank, who holds a mortgage lien interest in the

defendant real property, have agreed to the terms of a settlement of this action, thereby resolving all issues without the need for further litigation.

Upon consideration of the pleadings, supporting verified materials, oral argument by counsel for the United States and Regions Bank in open court on July 17, 2009, and for good cause shown, the Court finds the *Consent Judgment and Order of Forfeiture*, previously entered on February 26, 2009 (Doc. 20), is due to be AMENDED in order to grant relief in the interest of justice, as permitted by Fed. R. Civ. P. 60(b)(6). There being no just reason for delay in entering an amended final order and thereby concluding this action,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. That Final Judgment of Forfeiture be and the same is hereby entered in favor of the United States of America, pursuant to 8 U.S.C. § 1324(b) and 18 U.S.C. § 981(a)(1)(C), and against the defendant real property, located at 149 Elder Drive, Alabaster, Alabama, together with all improvements, fixtures, and appurtenances thereon, more particularly described as follows:

Parcel I

A parcel of land located in the NW 1/4 of SW 1/4 of Section 14, Township 21 South, Range 3 West; being more particularly described as follows:

From the Northeast corner of the NW 1/4 of SW 1/4 of Section 14, Township 21 South, Range 3 West, run South along the East boundary Line of the NW 1/4 of SW 1/4 for 385.0 feet; thence turn an angle of 92 deg. 47 min. to the right and run westerly 167.88 feet to the point of beginning; thence turn an angle of 92 deg. 47 min. to the left and run Southerly 315.0 feet; thence turn an angle of 92 deg. 47 min. to the right and run westerly 315.0 feet; thence turn an angle of 87 deg. 13 min. to the right and run 315.0; thence turn an angle of 92 deg. 47 min. to the right and run 315.0 feet to the point of beginning.

Also, a 10 foot easement described as follows:

Commencing at the NW corner of the above described lot and run Westerly direction to the East right of way line of Montevallo Siluria Highway; thence run Northerly direction along said Highway 10 feet, thence in an Easterly direction parallel with the North line of NW 1/4 of SW 1/4 of section 14, a distance of 315 feet; thence run South 10 feet; thence run in a Westerly direction to the point of beginning.

Parcel II

Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly along the East line of said 1/4-1/4, 554.50 feet to a point; thence 92 deg. 47 min. right and run westerly 167.88 feet to a point; thence 92 deg. 47 min. to the left and run Southerly 145.50 feet to the point of beginning; thence 92 deg. 47 min. to the right and run Westerly 463.28 feet to a point on the East right of way line of Alabama State Highway Number 119; thence 92 deg. 47 min. to the left and run Southerly along the said East right of way line of said Highway 119, 17.57 feet to a point; thence 86 deg. 40 min. to the left and run Easterly 353.90 feet to a point; thence 1 deg. 02 min. 15 sec. to the left and run Easterly 109.38 feet to a point; thence 92 deg. 47 min. to the left and run northerly 24.0 feet to the point of beginning.

Parcel III-A

Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly along the East line of said 1/4-1/4, 724.0 feet to the point of beginning; thence continue along last described course 125.0 feet to a point; thence 92 deg. 47 min. to the right and run Westerly 277.26 feet to a point; thence 87 deg. 13 min. to the right and run northerly 125.0 feet to a point; thence 92 deg. 47 min. to the right and run Easterly 277.26 feet to the point of beginning.

Also the right of ingress and egress over the following described parcel of land; Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, thence southerly along the east line of said 1/4-1/4 554.50 feet to a point; thence 92 deg. 47 min. right and run Westerly 167.88 feet to a point; thence 92 deg. 47 min. to the left and run Southerly 145.50 feet to the point of beginning; thence 92 deg. 47 min. to the right and run westerly 463.28 feet to a point on the east right of way line of Shelby County Highway Number 119; thence 92 deg. 47 min. to the left and run Southerly along the said East right of way line of said Highway 119, 17.57 feet to a point; thence 86 deg. 40 min. to the left and run Easterly 353.90 feet to a point; thence 1 deg. 02 min. 15 sec. to the left and run Easterly along the North line of subject property 109.38 feet to a point; thence 92 deg. 47 min. to the left and run Northerly 24.0 feet to the point of beginning and the end of said parcel.

Parcel III-B

Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly along the East line of said 1/4-1/4, 385.0 feet to the point of beginning of Parcel III-B; thence continue along last described course 169.50 feet to a point; thence 92 deg. 47 min. to the right and run Westerly 167.88 feet to a point; thence 87 deg. 13 min. to the right and run Northerly 169.50 feet to a point; thence 92 deg. 47 min. to the right and run Easterly 167.88 feet to the point of beginning.

Also the right of ingress and egress over the following described parcel of land: Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly the East line of said 1/4-1/4 554.50 feet to the southeast corner of Parcel III-B; thence 92 deg. 47 min. right and run westerly 147.86 feet to the point of beginning of the parcel being described; thence continue along last described course 20.02 feet to the Southwest corner of Parcel III-B; thence 92 deg. 47 min. to the left and run Southerly along the West line of parcel III-C 145.50 feet to a point; thence 92 deg. 47 min. to the right and run westerly 463.2 feet to a point on the east right of way line of Shelby County Highway No. 119; thence 92 deg. 47 min. to the left and run Southerly along the said East right of way line of said Highway 119, 17.57 feet to a point; thence 86 deg. 40 min. to the left and run Easterly 353.90 feet to a point; thence 1 deg. 02 min. 15 sec. to the left and run Easterly along the North line of a parcel heretofore conveyed by Paul Leon Cost and wife, Lois Cost to David M. Pigg as shown by instrument recorded in Deed Book 324 Page 621 in Probate Office of Shelby County, Alabama, 129.40 feet to a point; thence 92 deg. 47 min. to the left and run Northerly 169.50 feet to the point of beginning.

Parcel III-C

Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly along the East line of said 1/4-1/4, 554.50 feet to the point of beginning of Parcel III-C thence continue along last described course 169.50 feet to a point; thence 92 deg. 47 min. to the right and run Westerly 167.88 feet to a point; thence 87 deg. 13 min. to the right and run Northerly 169.50 feet to a point; thence 92 deg. 47 min. to the right and run Easterly 167.88 feet to the point of beginning.

Also the right of ingress and egress over the following described parcel of land: Commence at the Northeast corner of the NW 1/4 of the SW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama; thence Southerly along the East line of said 1/4-1/4 554.50 feet to the Southeast corner of Parcel III-B; thence 92 deg. 47 min. right

and run Westerly 147.86 feet to the point of beginning of the parcel being described; thence continue along last described course 20.02 feet to the Southwest corner of Parcel III-B; thence 92 deg. 47 min. to the left and run Southerly along the West line of Parcel III-C, 145.50 feet to a point; thence 92 deg. 47 min. to the right and run Westerly 463.28 feet to a point on the East right of way line of Shelby County Highway No. 119; thence 92 deg. 47 min. to the left and run Southerly along the said East right of way line of Highway 119, 17.57 feet to a point; thence 86 deg. 40 min. to the left and run Easterly 353.90 feet to a point thence 1 deg. 02 min. 15 sec. to the left and run Easterly along the North line of a parcel heretofore conveyed by Paul Leon Cost and wife, Lois Cost to David M. Pigg as shown by instrument recorded in Deed Book 324 page 621, in the Probate Office of Shelby County, Alabama, 129.40 feet to a point; thence 92 deg. 47 min. to the left and run Northerly 169.50 feet to the point of beginning and the end of said parcel.

2. That all persons, other than the Property Tax Commissioner for Shelby County, Alabama, and Regions Bank, claiming any right, title or interest to the defendant real property are held in default.

3. That the United States of America has clear title to the defendant real property, subject to the outstanding tax lien in favor of the Property Tax Commissioner, Shelby County, Alabama and the outstanding mortgage lien in favor of Regions Bank, and no property rights exist therein except as set out in this order; and that, pursuant to 18 U.S.C. § 981(f), title to the defendant real property vested in the United States on January 1, 1998, the date upon which said real property was first used in violation of federal law and, thus, became subject to forfeiture.

4. That upon entry of this Order and in accordance herewith, the United States may proceed to sell or otherwise dispose of the defendant real property according to law and that the proceeds derived from the sale or disposition of said property shall be applied and distributed as follows and in the following order:


- (a) Payment of all costs of seizure, sale, and Director's expenses;
- (b) Payment to the Property Tax Commissioner for Shelby County, Alabama in the amount of \$2,992.87;
- (c) Payment to Regions Bank in the amount of \$150,000.00;
- (d) Payment of all other outstanding property taxes due, if any, on the defendant real property through the date of this Order; and
- (e) Payment of the balance of the proceeds to the United States of America, and disposed of by the Director, U.S. Immigration and Customs Enforcement (ICE), according to law.

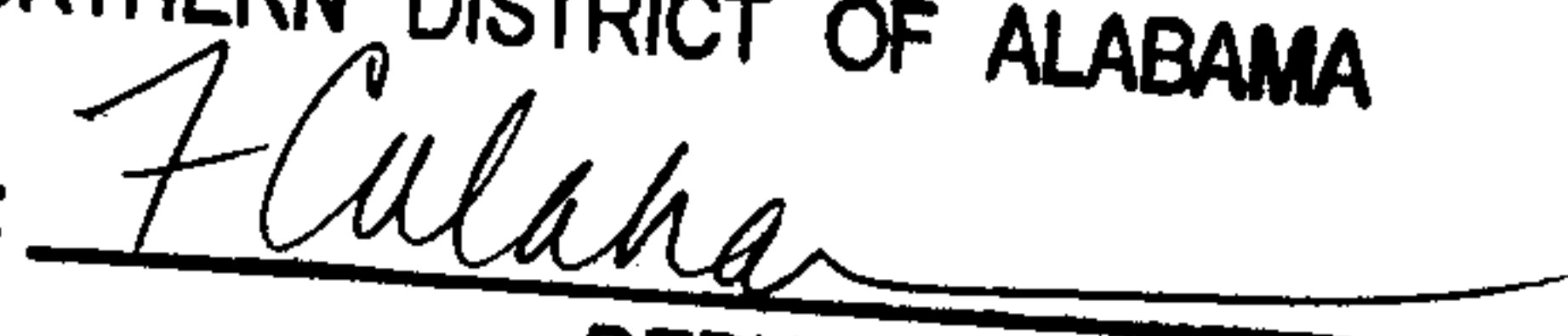
5. That in the event the Director is unable to sell the defendant real property at an outright sale for a sum sufficient to pay the lien holders their respective amounts set forth in the preceding paragraph, then the Director shall be free to dispose of said property in any manner permitted by law. If the Director disposes of said property by sale, he shall distribute the proceeds he received in the order of the priorities enumerated in the preceding paragraph. In such an event, no party shall have any cause of action against the United States on account of any deficiency thereby created.

6. That all parties and claimants shall be responsible for their own costs and attorney's fees incurred in this proceeding, except as otherwise specified herein.

7. That a certificate of reasonable cause shall be issued to the United States of America in this action, in accordance with 28 U.S.C. § 2465.

DONE this 22nd day of July, 2009.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

A TRUE COPY
SHARON N. HARRIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: 
DEPUTY CLERK