



IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA



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Shelby Cnty Judge of Probate, AL
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WELLS FARGO BANK, N.A.,)
Plaintiff,)
V.) Case No.: CV-2011-901032.00
KNIGHTEN OLLIE A. JR.,)
KNIGHTEN JAMES K.,)
DRIVER ROY JR.,)
DRIVER RONALD H. JR. ET AL,)
Defendants.)

INDEXING NOTE: Index in the names of the above-referenced parties, together with references to the above-described property, Billie Knighten Driver, a/k/a Billie Knighton Driver, and that certain Adjustable Rate Home Equity Conversion Mortgage recorded at Instrument Number 20080124000031450.

FINAL ORDER AND DECLARATORY JUDGMENT TO QUIET TITLE

This action having come before the Court upon the Joint Stipulation for Final Order and Consent Judgment submitted by Plaintiff WELLS FARGO BANK, N.A. ("Plaintiff"), and Defendants OLLIE A. KNIGHTEN, JR., JAMES K. KNIGHTEN, ROY DRIVER, JR., RONALD H. DRIVER, JR. and JEREMY PAUL DRIVER (collectively, the "Defendants"), having made known to the Court that the parties have agreed to the terms of a consent judgment as set forth herein, and the Court having reviewed and considered the pleadings and evidence submitted in this case, it is therefore

ORDERED, ADJUDGED AND DECREED as follows:

1. That Plaintiff filed this quiet title lawsuit against the named Defendants pursuant to Ala. Code §6-6-540, *et seq.*, to establish the validity and priority of its mortgage lien interest in the following described real estate, situated in Shelby County, Alabama, to-wit (the "Property"):

Lot 11, according to the amended plat of Park Place, Fourth Addition, as recorded in Map Book 18, Page 116, in the Probate Office of Shelby County, Alabama.

2. That Plaintiff is the mortgagee of that certain Adjustable Rate Home Equity Conversion Mortgage dated October 11, 2002, signed by Billie Knighten Driver a/k/a Billie Knighton Driver (hereinafter referred to as the "Borrower"), as mortgagor, in the maximum principal amount of \$165,000.00, and recorded in

Instrument No. 20080124000031450, in the Probate Office of Shelby County, Alabama (the "Plaintiff's Mortgage").

3. That the last deed of record concerning the Property is that certain Quit Claim Deed in favor of Roy Wayne Driver, Sr. and the Borrower dated March 20, 1997, and recorded at Inst # 1997-08663 (the "1997 Deed").

4. That Roy W. Driver a/k/a Roy Wayne Driver, Sr. (hereinafter referred to as "Wayne Driver") died on August 14, 1998. As the 1997 Deed did not contain joint survivorship language, Wayne Driver and the Borrower each owned an undivided one half ($\frac{1}{2}$) interest in the Property at the time of his death. There is no deed of record conveying Wayne Driver's undivided one half ($\frac{1}{2}$) interest in the Property.

5. That Plaintiff seeks to clear title with respect to the Plaintiff's Mortgage and any superior interest that may be claimed by Defendants, as the heirs and devisees of Wayne Driver, including any interest in the Property by virtue of that certain Last Will and Testament of Roy Wayne Driver Sr. and Billie K. Driver dated March 11, 1996 (the "Driver Will"), which was probated in the Estate of Roy Wayne Driver Sr., Case #37-292, in the Probate Court of Shelby County, Alabama.

6. That the Defendants have appeared in this action, having affirmatively accepted and acknowledged effective service of the Complaint and the proper jurisdiction of this Court with respect to this action and the claims therein.

7. That the Defendants constitute all of Wayne Driver's heirs and devisees, including all of those persons named as devisees in the Driver Will (or their respective heirs and devisees, if deceased).

8. That Defendant Ronald H. Driver, Jr. and Defendant Jeremy Paul Driver constitute all of the heirs and devisees of Ronald H. Driver, Sr., deceased on August 15, 2007, being one of Wayne Driver's heirs and named devisees in the Driver Will.

9. That the Borrower died on April 2, 2010. The Defendants constitute all of the heirs and devisees of the Borrower, including all of those persons named as devisees in the Driver Will (or their respective heirs and devisees, if deceased).

10. That Plaintiff is currently in peaceable constructive possession of the Property.

11. That no suit other than this action is pending to test or determine the title to, interest in, or right of possession of the Plaintiff in or to the Property or any part thereof, and no suit is pending to test or determine any other title to, interest in, or right of possession of the said lands or any part thereof.

12. That, in accordance with the terms of the Driver Will and the administration of the Estate of Roy Wayne Driver Sr., Case #37-292, the Borrower

was the sole devisee of Wayne Driver's undivided one half (1/2) interest in the Property, and, at the time of the execution of the Plaintiff's Mortgage, the Borrower had the full power and authority to convey to Plaintiff a valid and enforceable mortgage lien interest upon the entire fee simple interest in the Property.

13. That the Plaintiff's Mortgage constitutes a valid and enforceable mortgage lien on the entire Property, superior in right and time to any and all rights and interests of the Defendants.

14. That the Property is not the homestead property of any of the Defendants or their spouses, and Defendants have affirmatively waived any claim in and to the Property as a homestead.

15. That Plaintiff shall have all of the rights and remedies afforded to it by the terms of Plaintiff's Mortgage and by applicable law, including, without limitation, the right in the event of a default thereunder to proceed with a foreclosure by power of sale in accordance with the terms of Plaintiff's Mortgage and Alabama law.

16. That the Plaintiff is hereby directed to record a certified copy of this Final Order in the Probate Office of Shelby County, Alabama.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that final judgment is entered in favor of WELLS FARGO BANK, N.A., as set forth hereinabove. Costs of court are taxed as paid.

DONE this 11th day of August, 2014.

/s/ WILLIAM H. BOSTICK, III
CIRCUIT JUDGE

Certified a true and correct copy
Date: 08-15-14

Mary H. Harris p43
Mary H. Harris, Circuit Clerk
Shelby County, Alabama