



IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

JPMORGAN CHASE BANK, N.A., a
corporation,

PLAINTIFF,

V.

MONYSTED CAPITAL CORP, a
corporation; NORTH SHELBY COUNTY
FIRE & EMERGENCY MEDICAL
DISTRICT, a public corporation; DAVID K.
MILLER, an individual; LISA G. MILLER,
an individual,

DEFENDANTS.

CIVIL ACTION NO. CV-2013-900854.00

Amended
ORDER

This cause is before the Court on the Motion for Summary Judgment of plaintiff JPMorgan Chase Bank, N.A. ("Chase") filed herein on August 25, 2014, and the Evidentiary Submission in Support of Motion for Summary Judgment filed simultaneously therewith. The Court thereafter set Chase's motion for hearing on October 2, 2014. On September 20, 2014, defendant Monysted Capital Corp. ("Monysted") filed a motion for continuance pursuant to Rule 56(f), Ala. R. Civ. P., whereupon the Court continued the hearing on Chase's motion until October 30, 2014. On October 28, 2014, defendant Monysted filed a second motion for continuance pursuant to Rule 56(f), to which Chase filed its opposition on October 29, 2014. At 7:12 a.m. on October 30, 2014, counsel for defendant Monysted filed a second affidavit, with some attachments, in connection with Monysted's motion for continuance.

The attorneys of record for plaintiff Chase, defendant Monysted, and defendant North Shelby County Fire & Emergency Medical District ("Fire District"), as well as defendant David K. Miller, appearing pro se, appeared before the Court at 9:00 a.m. on October 30, 2014. After calling this case for hearing, the Court initially heard arguments from counsel for defendant

Monysted and counsel for plaintiff Chase relating to Monysted's motion for continuance filed on October 28. Upon consideration of Monysted's motion and affidavits, as well as the opposition filed by Chase and the arguments of counsel, the Court determines that Monysted's motion for a second continuance is not well-taken, and is DENIED.

The Court, having considered Chase's motion for summary judgment and its evidentiary submission in support thereof, as well as the written opposition filed by Monysted on October 28, 2014 and the oral arguments of counsel, determines that the material facts, as are set forth at pages 4-7 of Chase's motion (and as supported by the affidavit of Sumer J. Murton and other materials contained in Chase's evidentiary submission), are undisputed, and that the Motion for Summary Judgment of plaintiff Chase is well-taken and due to be GRANTED based upon the holding of the Supreme Court of Alabama in Special Assets, LLC v. Chase Home Finance, LLC, 991 So. 2d 668 (Ala. 2007) as well as the other authorities and arguments set forth by Chase in its motion.

In accordance with the foregoing, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. That plaintiff Chase's Motion for Summary Judgment be and the same is hereby GRANTED.

2. That plaintiff Chase is entitled to redeem the residential property of its borrowers/mortgagors David K. Miller and Lisa G. Miller, having a street address of 4812 Keith Drive, Birmingham, Alabama 35242, as more particularly described in Exhibit A hereto, from defendant Monysted, who bid and paid \$1,500 to defendant Fire District at the Fire District's lien foreclosure sale conducted on July 12, 2004, and was the grantee of that certain Fire District Service Fees Sale Deed dated July 15, 2004. Such redemption is due to be accomplished, as

requested by plaintiff Chase, by having David K. Miller and Lisa G. Miller named as the grantees of the redemption deed.

3. That, within fourteen (14) days of the date of this Order, plaintiff Chase, by and through its attorney of record, shall tender to defendant Monysted, in care of its attorney of record, a redemption deed (in the form attached hereto as Exhibit B) and also a check in the amount of \$2,528.00, made payable to Monysted Capital Corp.¹ If Monysted Capital Corp. does not accept the check and execute the redemption deed within fourteen (14) days of tender, then, upon notification by counsel for plaintiff Chase, this Court will issue a supplemental order directing the Clerk of this Court to issue such redemption deed, and directing that plaintiff Chase pay the redemption price to the Clerk of this Court, to be held for defendant Monysted.

4. Plaintiff Chase's claim against defendant Fire District relating to the overbid that occurred at the July 12, 2004 sale will be held open until such time as the redemption deed is executed and recorded, at which time counsel for plaintiff Chase and for defendant Fire District shall submit a proposed order to the Court relating to the disposition of the overbid amount.

DONE and ORDERED this 31st day of October, 2014.



CIRCUIT JUDGE

¹ Under Alabama law, redemption is accomplished by payment of "the amount of the purchase price for which the property was sold at such sale plus an amount equal to interest on such purchase price from the date of such sale to the date of redemption at the rate of six percent per annum plus a fee of \$2.00 to cover the expense of a conveyance." Ala. Code § 11-48-54. Here, the purchase price paid by Monysted at the July 12, 2004 Fire District Lien Foreclosure Sale was \$1,500, such that ten (10) years' worth of 6% simple interest would be \$900.00 for the period July 13, 2004 through July 12, 2014. The Court determines that the per diem interest is \$0.2467, which the Court rounds to \$0.25, for ease of calculation. Thus, assuming that the redemption check is tendered on or before November 15, 2014, the redemption amount would be \$1,500 (purchase price) + \$1,026 (interest) + \$2.00, as specified in § 11-48-54.

Exhibit A

The following described property:

Parcel I: Lot 3, Block 14, according to the Map and Survey of Broken Bow South, as recorded in Map Book 11, Page 82, in the Probate Office of Shelby County, Alabama.

Parcel II: A parcel of land located in the SW-1/4 of the SE-1/4 of Section 12, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Southwest corner of Lot 3, Block 14, of Broken Bow South, as recorded in Map Book 11, Page 82, in the Office of the Judge of Probate of Shelby County, Alabama, also being the point of beginning; thence run Easterly along the Southern line of said Lot 3, Block 14, a distance of 120.11 feet to the Southeast corner of said lot; thence right 85 degrees 07 minutes 42 Seconds Southerly along the prolongation of the East line of Lot 3 a distance of 5.15 feet; thence right 94 degrees 52 minutes 25 seconds parallel to the South line of Lot 3 a distance of 120.11 feet; thence right 87 degrees 47 minutes 03 seconds a distance of 5.14 feet North along the prolongation of the West line of Lot 3 to the point of beginning.

Assessor's Parcel No: 101120009074000



20141103000346510 4/7 \$32.00
Shelby Cnty Judge of Probate, AL
11/03/2014 01:47:00 PM FILED/CERT

Exhibit B

This instrument prepared by:

Send Tax Notice To:

David K. Miller

Lisa G. Miller

4812 Keith Drive

Birmingham, AL 35242

REDEMPTION DEED

STATE OF ALABAMA)
)
SHELBY COUNTY)

KNOW ALL MEN BY THESE PRESENTS: that for and in consideration of Two Thousand Five Hundred Twenty Eight and No/100 Dollars (\$2,528.00) in hand paid to **Monysted Capital Corp.** ("Grantor"), the receipt and legal sufficiency of which are hereby acknowledged, Grantor does grant, bargain, sell and convey, subject to the lien for 2015 taxes, to **David K. Miller and Lisa G. Miller**, husband and wife, as joint tenants with right of survivorship ("Grantees"), all of Grantor's rights, title, interest and claim in or to that certain real property, situated in Shelby County, Alabama, having a street address of 4812 Keith Drive, Birmingham, AL 35242, and being more particularly described in Exhibit A hereto (the "Property").

Grantor is conveying only all right, title and interest it obtained in and to the Property by virtue of that certain "Fire District Service Fees Sale Deed" dated July 15, 2004, and recorded in the Probate Office of Shelby County, Alabama as Inst. #20040719000400710 and makes no warranty regarding the title Grantor acquired pursuant thereto, however, Grantor shall warrant and defend title of the Grantees to the Property as to all claims of persons claiming by and through Grantor.

TO HAVE AND TO HOLD, unto Grantees, their heirs and assigns forever.

Given under my hand and seal, this _____ day of _____, 2014.



20141103000346510 5/7 \$32.00
Shelby Cnty Judge of Probate, AL
11/03/2014 01:47:00 PM FILED/CERT

MONYSTED CAPITAL CORP.

By: _____
Its: _____

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

I, _____, a Notary Public in and for said County in said State,
hereby certify that _____ whose name as
_____ of **Monysted Capital Corp.**, an Alabama
corporation, is signed to the foregoing instrument, and who is known to me, acknowledged
before me on this day that, being informed of the contents of the instrument, (s)he, as such
_____ and with full authority, executed the same voluntarily for and as
the act of said corporation.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public

My commission expires _____

[NOTARY SEAL]

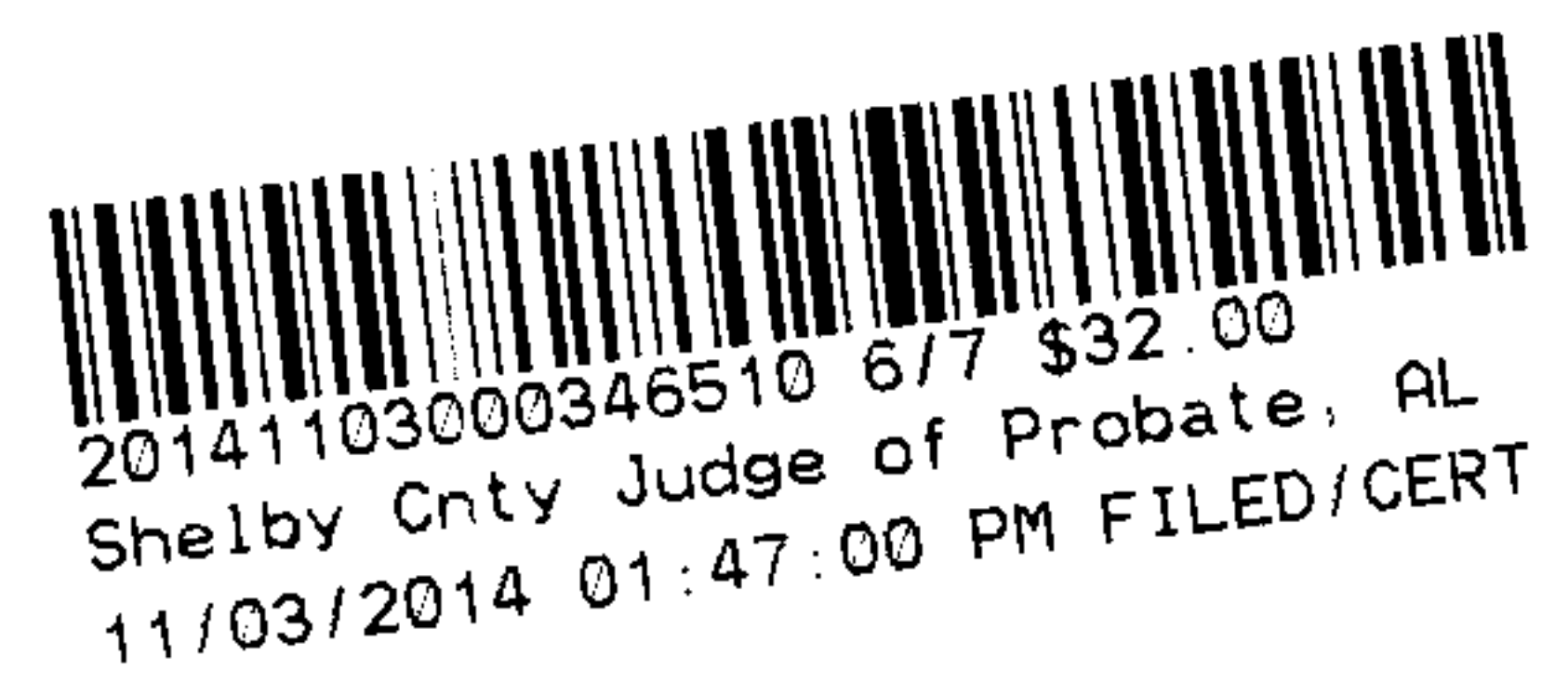


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