

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

DALE JOHN,
BACKHOE RENTAL SERVICE INC.,
DALE PAMELA S.,
DALE HEIRS OF JOHN EDWARD ET AL.,
Defendants.

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Shelby Cnty Judge of Probate AL
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beginning of the property being described; thence run South 02 degrees 40 minutes 06 seconds East a distance of 330.35' to a found rebar corner on the Northerly margin of Highway No. 340; thence run South 81 degrees 28 minutes 09 seconds East along said margin of said Highway a distance of 100.37' to a set steel rebar corner; thence run North 02 degrees 43 minutes 46 seconds West a distance of 330.61' to a set one half inch steel rebar corner; thence run North 81 degrees 34 minutes 35 seconds West a distance of 99.97' to the point of beginning,

PARCEL: 58-22-03-07-0-000-006.013

PROPERTY ADDRESS: 51 Little Rock Drive, Alabaster, Alabama 35007

(the "Property").

2. Plymouth purchased the Property at the May 1, 2008 Shelby County tax sale (the "Tax Sale").
3. On October 20, 2011, the Probate Court of Shelby County issued to Plymouth a tax deed (the "Tax Deed") to the Property.
4. Plymouth subsequently sold and assigned its interest in the Property to Propel.
5. Propel subsequently sold and assigned its interest in the Property to RioProp. RioProp is now the party entitled to the relief provided in this Judgment.
6. The record owner of the Property when it was sold at the Tax Sale was John Edward Dale. John Edward Dale is deceased and his estate was not properly probated.
7. The Complaint in Intervention was verified and filed against the Property and against any and all persons claiming any title to, interest in, line or encumbrance on the Property or any part thereof, and did in all respects the Complaint in Intervention complied with the provisions of the Alabama Code § 6-6-561.
8. Plaintiff in Intervention requested the Court to appoint a guardian ad litem ("GAL") to represent the interests, if any, of the unknown John Edward Dale Heirs, the unknown Eva Carter Heirs, and any other unknown parties with an interest in the Property.
9. On June 15, 2015, the Court appointed Matt Talley as the GAL.
10. On September 25, 2015, the Court entered an Order authorizing service of the unknown heirs of John Edward Dale, the unknown heirs of Eva Carter, any other unknown parties, and the Property by publication.
11. On June 10, 2015, notice of the pendency of the Complaint, certified by the Court as being correct, was recorded as a lis pendens in the Office of the Judge of Probate of said county, and said notice is in compliance with the Alabama Code §§ 35-4-131 and 6-6-564.

12. On March 9, 2016, a representative of the Shelby County Reporter prepared an Affidavit of Publication of the Complaint in Intervention as Amended attesting that notice of the Complaint in Intervention as Amended had been published in its editions of February 17, 2016, February 24, 2016, March 2, 2016, and March 9, 2016. The deadline for any party with an interest in the Property to file an answer to the Complaint in Intervention as Amended has expired.

13. The GAL filed his report identifying the parties with a possible interest in the Property on January 18, 2016. The GAL Report established the following:

a) William and Eva Carter owned the Property in 1984 as joint tenants with the right of survivorship. William and Eva were married in 1984, but divorced in 1992.

b) A deed to the Property in which William and Eva Carter were identified as the grantors and John Dale was identified as the grantee was recorded on November 20, 2006. The Carters alleged that the deed was forged and fraudulently recorded.

c) John Dale died in 2010. At the time of his death, he was married to Carol Dale a/k/a Carol Owens. John Dale was survived by two children - Amber Yvonne Dale and Michael Dale. There had been reports that John may have another son named Damein Dale. However, the GAL did not learn of any information that would support the conclusion that such an heir existed.

d) Eva Carter died in 2012. Any interest Eva Carter may have had in the Property would have transferred to William Carter when she died. Thus, no heir or successor of Eva Carter could have an interest in the Property.

14. Defendant, Amber Dale was served with a summons and copy of the Complaint in Intervention on May 4, 2015 by special process server. Amber Dale did not file an answer to the Complaint in Intervention; therefore, an application for default was filed against her on January 27, 2016. The Court entered an Order against Amber Dale on February 27, 2016.

15. Defendant, Carol Owens was served with a summons and copy of the copy of the Complaint in Intervention on May 4, 2015 by special process server. Carol Owens did not file an answer to the Complaint in Intervention; therefore, an application for default was filed against her on January 27, 2016. The Court entered an Order against Carol Owens on February 9, 2016.

16. Defendant Michael Dale was served with a summons and copy of the Complaint in Intervention October 1, 2015 by special process server. Michael Dale did not file an answer to the Complaint in Intervention; therefore, an application for default was filed against him on January 27, 2016. The Court entered an Order against Michael Dale on February 9, 2016.

17. Other than the persons named in this lawsuit, the GAL was unable to identify any other successors, heirs or devisees of John Edward Dale, or anyone else who should be named in this lawsuit.

18. All persons or entities who may have a right to redeem the Property from the Tax Sale have been served with proper notice required by Alabama law.

19. There is no other action pending to test title to the Property.

20. At the time of the filing of the Complaint in Intervention, there was no other suit pending to test Plaintiff in Intervention's title to, interest in, or the right to the possession of the Property.

21. Unless otherwise noted, service of process against all defendants was had in compliance with the provisions of the Alabama Code § 6-6-664 and Rule 4.3 of Alabama Rules of Civil Procedure, and the Court finds that Plaintiff in Intervention and its predecessors in interest exercised diligence to ascertain all of the facts in regard to the names of proper parties as defendants.

22. No other person or entity has intervened in this case except that this Court appointed the Honorable Matt Talley as the Guardian Ad Litem for the interests of unidentified and unknown parties in the proceeding; and he has examined the file in this proceeding, researched possible interests in the Property and submitted a formal report of his findings and conclusions.

23. The Plaintiff in Intervention and its predecessors in interest complied with all of the provisions of law relative to this proceeding in rem to establish title to land. It is therefore,

ORDERED, ADJUDGED AND DECREED by the Court that RioProp is entitled to the relief prayed for in the Complaint in Intervention against the Property and all defendants named in this action, including the right to exclusive possession of the Property, and that the fee simple title claimed by RioProp in and to the above described Property has been duly proved, and that RioProp is the owner of the Property and has a fee simple title thereto, free of any redemption rights, all liens and encumbrances, and that title thereto be and is hereby established in favor of RioProp. in rem, and that all doubts and disputes concerning the title to the Property are hereby cleared up in favor of RioProp. It is further

ORDERED, ADJUDGED AND DECREED by the Court that any and all rights of redemption from the May 1, 2008 Tax Sale of the Property have been eliminated and that none of the defendants named in this lawsuit have any remaining interest in the Property whatsoever. It is further

ORDERED, ADJUDGED AND DECREED by the Court that a certified copy of this decree be recorded in the Office of the Judge of Probate of Shelby County, Alabama, and that it be indexed in the name of RioProp, in both the direct index and indirect index of the records thereof. It is further

ORDERED, ADJUDGED AND DECREED that the Sheriff assist RioProp, if necessary, to place RioProp in the actual possession of the Property. It is further

ORDERED, ADJUDGED AND DECREED by the Court that RioProp herein pay the costs of the proceedings.


DONE this 30th day of NOVEMBER, 2016.


COREY B MOORE, CIRCUIT JUDGE

Certified a true and correct copy

Date: 12.22-16


Mary H. Harris, Circuit Clerk
Shelby County, Alabama


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