



IN THE CIRCUIT COURT OF SHELBY COUNTY,

V.

Case No.: CV-2020-900748-00

ORDER OF DEFAULT JUDGMENT

1. Plaintiff filed its Complaint as an action for ejectment and for relief in the nature of ejectment and quiet title to the Properties on September 21, 2020. As set forth in Plaintiff's Complaint, the real properties involved in this action are located in Shelby County, Alabama and is more specifically described as:

Address: 210 Bentmoor Lane, Helena, Alabama, 35080

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Parcel No.: 13 4 20 1 009 032.000
PPIN: 40088

Lot 1101, according to the Survey of First Addition, Old Cahaba, Phase III, as recorded in Map Book 128, Page 133, in the Probate Office of Shelby County, Alabama.

Address: 205 Bentmoor Lane, Helena, Alabama 35080
Parcel No.: 13 4 20 1 009 002.000
PPIN: 40058

2. As explained in the Affidavit of Default filed by Plaintiff, service of process was completed on Defendants during October of 2021 under Ala. R. Civ. P.4(c). The Court finds that service on Defendants was proper, giving the Court personal jurisdiction over them consistent with the Due Process clause of the United States and Alabama Constitutions. Nevertheless, Defendants failed to respond to the Summons and Complaint. In the affidavit of default, Plaintiff's counsel included an affidavit of non-military service as required by the Servicemembers Civil Relief Act, 50 U.S.C. §§ 501-597b, specifically, 50 U.S.C. § 521. The court finds and concludes that Defendants are not entitled to protections under the Servicemembers Civil Relief Act, 50 U.S.C. §§ 501-597b, specifically, 50 U.S.C. § 521. Accordingly, Defendants are in default and Plaintiff is entitled to default judgment. See Ala. R. Civ. P. 55(a).

3. Title history shown by the records is as follows. Quaker Square Development Co., Inc. conveyed the properties to Defendant, AMERICAN HOMES & LAND CORPORATION by Statutory Warranty Deed recorded in the Judge of Probate's Deed Book at Instrument number 1999-2333 on June 3, 1999. A tax deed was issued to Defendant, Mooring Tax Asset Group, LLC from Defendant American Homes & Land Corporation on July 28, 2008 and recorded in the Judge of Probate's Deed Book at Instrument numbers 200807029000303990 (210 Bentmoor) and 200807029000304010 (205 Bentmoor) on July 28, 2008. Upon information and belief, the

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2008 property taxes were not paid, and the Properties was sold at public auction conducted in accordance with state law to J. Roy Weekley in May of 2009. A tax sale certificate was issued to J. Roy Weekley ("Delinquent Taxpayers"), and he became the assessed taxpayer thereafter. Upon information and belief, no tax deed was ever recorded to convey the properties to J. Roy Weekley. Upon information and belief, J. Roy Weekley was the assessed taxpayer at the time of the 2016 Tax Sale. Upon information and belief, J. Roy Weekley died on May 16, 2016, and Defendants HEIRS OF J. ROY WEEKLEY, TERRI WEEKLEY, JAY WEEKLEY, JOSH WEEKLEY and JAMIE PERRY may claim an interest in the properties as his heirs.

4. After Defendants failed to pay the ad valorem real property taxes for the Properties, the County sold the Properties at the tax Sale in accordance with state law to FNA NP LLC ("Purchaser") in the amount of \$404.23 (210 Bentmoor) and \$404.29 (205 Bentmoor). Defendants did not (1) pay the delinquent taxes owed within five days or otherwise file any objections to the Tax Sale under Ala. Code § 40-10-13, (2) redeem the properties within three years from the Tax Sale, (3) seek judicial redemption of the Properties under Ala. Code § 40-10-82.

5. A Tax Sale Certificate for the Properties was issued to Purchaser under Ala. Code § 40-10-19. Purchaser assigned the Tax Sale Certificate to Plaintiff, Guardian Tax AL, LLC, by Assignment of Tax Sale Certificate dated April 29, 2019. Then, after the expiration of the three-year administrative redemption period, the Shelby County, Alabama Probate court issued Plaintiff Tax Deeds to the Properties, which is recorded in the county land records at on February 12, 2020 (the "Tax Deeds").

6. Based on the evidence before the Court, the Court finds that, with respect to the Tax Sale, all assessments, notices of delinquent taxes, and notices of redemption sent to the

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interested parties entitled to notice were performed in strict conformity with all statutory requirements. Thus, the Tax Sale validly conveyed the fee simple interest in the Properties to Purchaser, which then validly conveyed the Properties in fee simple to Plaintiff. By virtue of these conveyances, Plaintiff is seized in fee simple in the Properties, free and clear of all clouds on the title and Defendants' interests, subject to all easements and restrictions of record.

Conclusions of Law

1. This matter is properly before the Court. Notice was properly given to Defendants and the Court has personal jurisdiction over them. Further, this matter is within the subject matter jurisdiction of this Court and venue is proper.

2. This matter is ripe for final resolution without a hearing. Ala. Rules Civ. P. 55(b)(2). The facts necessary to support the relief requested are contained within the record before the Court, including the allegations in the Complaint, which Defendants have admitted by virtue of their default. See Ala. Rules Civ. P. 12 and 55. Defendants have failed to contest the validity of the Tax Sale, Plaintiff's title, or Plaintiff's entitlement to relief. Indeed, the real property records referenced in the Complaint, including the Tax Deeds, confirm Plaintiff is entitled to the relief it seeks. See Ala. Code § 40-10-30. Based on this undisputed evidence, Plaintiff is entitled to judgment as a matter of law.

3. In strict accordance with all statutory requirements, the County provided all required notices to all interested parties entitled to notice, properly assessed and levied upon the Properties, and thereafter properly noticed and sold the Properties to Purchaser at the Tax Sale.

4. Under Alabama law, an interested party has two methods of redeeming a property from that sale: "statutory redemption" (also known as "administrative redemption").

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which requires the payment of specified sums of money to the probate judge of the county in which the parcel is located (*see* § 40-10-120 et seq., Ala. Code 1975), and 'judicial redemption' under §§ 40-10-82 and -83, Ala. Code 1975" *Ex parte Found. Bank*, 146 So. 3d 1, 3 (Ala. 2013); *Heard v. Gunn*, 262 Ala. 283; 78 So.2d 313 (1955)); *see also Wall to Wall Properties v. Cadence Bank, NA*, 163 So. 3d 384, 387 n.1 (Ala. Civ. App. 2014) (identifying difference between administrative and judicial redemption under §§ 40-10-82 and -83). Defendants have failed to utilize either method to redeem the Properties from the Tax Sale.

5. Based on the foregoing and because the Tax Sale of the Properties was conducted in strict compliance with the statutory requirements pertaining to tax sales, the tax Sale of the Properties extinguished and forever eliminated all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claim in, to, or upon the Properties. Accordingly, all rights, titles, claim, interests, estates, liens, mortgages, judgments, and any other creditors' claims that Defendants had or claim to have in, to or upon the Properties are extinguished. All rights, titles, claim, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any person or entity claiming under, by, or through, Defendants are extinguished. Thus, all adverse claims to the Properties are forever barred. Plaintiff's marketable, fee simple title to the Properties is certain and free from all reasonable doubt.

6. Because the Tax Sale of the Properties was conducted in strict compliance with the statutory requirements pertaining to tax sales, any person or entity occupying the Properties must vacate the Properties and remove all items of personal property as set forth below. Any person occupying the Properties shall maintain the condition of the Properties without causing any harm or damage to the Properties. Any personal property left at the Properties is deemed to be abandoned.

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Therefore, it is ORDERED, ADJUDGED, and DECREED that:

1. Plaintiff shall have judgment against Defendants Heirs of J. Roy Weekley, Terri Weekley, Jay Weekley, Josh Weekley, Jamie Perry, American Homes & Land Corporation, and Mooring Tax Asset Group, LLC.
2. Plaintiff is declared to be the sole holder in fee simple of the Properties. Defendants and those who might claim any right, title, interest in, or lien upon the Properties through Defendants are barred from any claim to the Properties. Any cloud upon the title to the Properties is hereby removed, confirming Plaintiff's fee simple title to the Properties.
3. To the extent that Defendants or anyone claiming under them are in possession of the Properties, they shall quit and vacate the Properties and to deliver possession to the Plaintiff within 30 days.
4. The Shelby County Probate Court shall record this order in the real property records for the County upon presentment of a copy of this order and payment of the property deed-recording fee by Plaintiff.
5. Costs are taxed as paid.

DONE this 17th day of August, 2022.

CIRCUIT JUDGE

Certified a true and correct copy

Date: 09/01/22

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



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
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Allen S. Bayl