

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

DOCUMENT 47

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). After inspection by Plaintiff, the Property is vacant. Thus, fictitious Defendant, Any Occupant, does not exist and therefore should be dismissed.

3. Title history shown by the records is as follows. Walter E. Carden and Ruth E. Carden conveyed the property to Vervelee Tyler ("Delinquent Taxpayers") by warranty deed recorded in the Judge of Probate's Deed Book 253 Page 047 on May 10, 1968. Upon information and belief, Vervelee Tyler died on February 26, 1992, and her Will was recorded in the records of the judge of probate at Book 95, Page 169 on March 5, 1992. Said Will left a life estate in the property to Anita Ellyson and the residue of the estate to Patience Daniel Wells. Upon information and belief, the probate case number 30-254 was continued to be reset by any party by Order dated January 20, 2000 without resolving the estate and the property remained in the name of Vervelee Tyler at the time of the Tax Sale. Upon information and belief, Defendants ANITA ELLYSON, LINDA WHITE, KAY BRIGHT aka MARCIA K. JOINER and PATIENCE DANIELLE WELLS are heirs or devisees of Vervelee Tyler who may claim an interest in the subject property.

4. After Defendants failed to pay the ad valorem real property taxes for the Property, the County sold the Property at the tax Sale in accordance with state law to FNA NP LLC ("Purchaser") in the amount of \$3,503.29. 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 property within three years from the Tax Sale, (3) seek judicial redemption of the Property under Ala. Code § 40-10-82.

5. A Tax Sale Certificate for the Property was properly issued to Purchaser under Ala. Code § 40-10-19. Purchaser assigned the Tax Sale Certificate for the Property 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 a

DOCUMENT 47

Tax Deed to the Property, which is recorded in the county land records at Instrument 20200420000152810 on April 20, 2020 (the "Tax Deed").

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 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 Property to Purchaser, which then validly conveyed the Property in fee simple to Plaintiff. By virtue of these conveyances, Plaintiff is seized in fee simple in the Property, 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 Deed, 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 Property, and thereafter properly notices and sold the Property 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'), 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"

DOCUMENT 47

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 Property from the Tax Sale.

5. Based on the foregoing and because the Tax Sale of the Property was conducted in strict compliance with the statutory requirements pertaining to tax sales, the tax Sale of the Property extinguished and forever eliminated all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claim in, to, or upon the Property. 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 Property 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 Property are forever barred. Plaintiff's marketable, fee simple title to the Property is certain and free from all reasonable doubt.

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

Order

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

1. Plaintiff shall have judgment against Defendants ANITA ELLYSON, LINDA WHITE, KAY BRIGHT aka MARCIA K. JOINER, PATIENCE DANIELLE WELLS.
2. Fictitious Defendant, Any Occupant, does not exist and is therefore dismissed.
3. Plaintiff is declared to be the sole holder in fee simple of the Property. Defendants and those who might claim any right, title, interest in, or lien upon the Property through Defendants are barred from any claim to the Property. Any cloud upon the title to the Property is hereby removed, confirming Plaintiff's fee simple title to the Property.


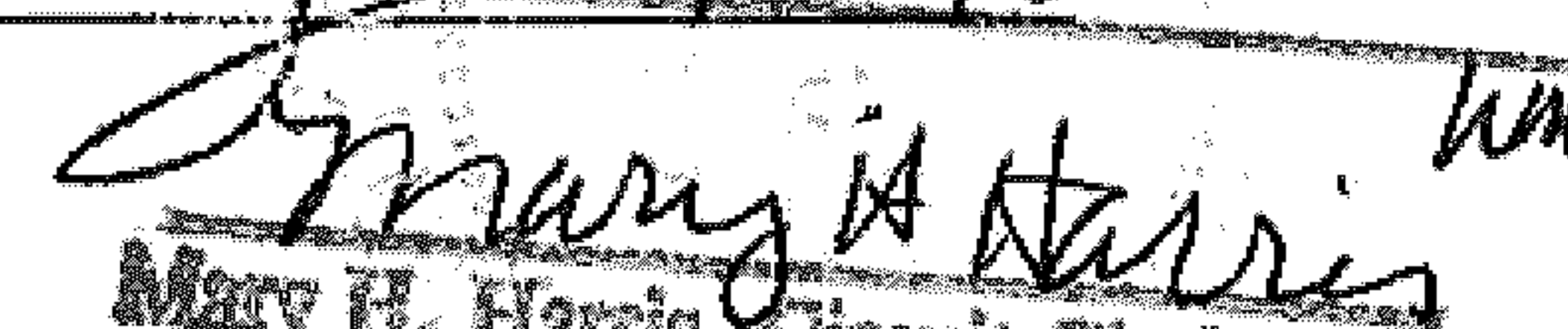
DOCUMENT 47

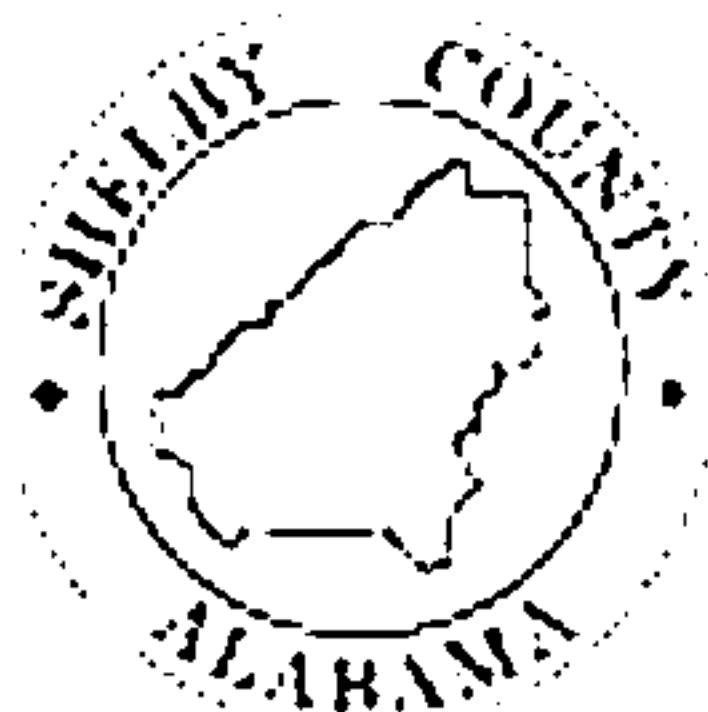
4. To the extent that Defendants or anyone claiming under them are in possession of the Property, they shall quit and vacate the Property and to deliver possession to the Plaintiff.

5. 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.

DONE this 9th day of September, 2022.


CIRCUIT JUDGE


Certified a true and correct copy
Date: 09/22/22

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
10/25/2022 10:03:27 AM
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