

DOCUMENT 58



ELECTRONICALLY FILED  
8/10/2023 12:01 PM  
58-CV-2022-900154.00  
CIRCUIT COURT OF  
SHELBY COUNTY, ALABAMA  
MARY HARRIS, CLERK

**IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA**

**GUARDIAN TAX AL, LLC,**

Plaintiff,

v.

**HEIRS OF J. ROY WEEKLEY, TERRI  
WEEKLEY, JAY WEEKLEY, JOSH  
WEEKLEY, JAIME PERRY, FOREST  
PARKS, LLC, THE HIGHWAY 43 FOREST  
PARKS RESIDENTIAL ASSOCIATION,  
INC.; LOT 901 ACCORDING TO THE  
SURVEY OF FOREST PARKS - 9TH  
SECTOR, AS RECORDED IN MAP BOOK  
24, AT PAGE 138 A & B, AND INSTRUMENT  
NO. 1998-49151, IN THE PROBATE OFFICE  
OF SHELBY COUNTY, ALABAMA; and  
John Does 1-99, representing the heirs,  
devisees, personal representative(s), successors,  
and/or assigns of Defendants who may claim an  
interest in the Property known as an  
undeveloped parcel of land on Landale Drive,  
Chelsea AL, 35147 (Parcel No. 09 05 21 0 000  
001.198); and any officer or officers whose  
omission or error should result in the defeat of  
the underlying tax sale, together with the  
sureties on the official bond;**

Defendant(s).

Civil Action No.

CV 2022-900154.00

**ORDER OF DEFAULT JUDGMENT**

Before this Court is the Motion for Default Judgment against FOREST PARKS, LLC and THE HIGHWAY 43 FOREST PARKS RESIDENTIAL ASSOCIATION, INC, (collectively, "Forest Parks Defendants") filed July 25, 2023, by Plaintiff Guardian Tax AL, LLC ("Plaintiff"). Plaintiff requests that the court enter judgment regarding the real property known as undeveloped parcel of land on Landale Drive, Chelsea AL, 35147 (Parcel No. 09 05 21 0 000 001.198) (the "Property") which was purchased at the Shelby County

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Alabama tax sale held on March 21, 2016 (the "Tax Sale"). Because the facts and law support the relief requested by Plaintiff, the Court GRANTS the motion, making the following findings of fact and conclusions of law without a hearing.<sup>1</sup>

1. Plaintiff filed its Complaint as an action for ejectment and for relief in the nature of ejectment and quiet title to the Property on March 17, 2022. As set forth in Plaintiff's Complaint, the real property involved in this action is located in Shelby County, Alabama and is more specifically described as:

Lot 901 according to the Survey of Forest Parks - 9<sup>th</sup> Sector, as recorded in Map Book 24, at Page 138 A & B, and Instrument No. 1998-49151, in the Probate Office of Shelby County, Alabama.  
Subject To:

1. Restrictions, public utility easements and building setback lines, as shown on the recorded map and survey of Forest Park, 9th Sector, as recorded in Map Book 24, page 138 A & B, in the Probate Office of Shelby County, Alabama.
2. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the land, together with all rights, privileges, and immunities relating thereto including those as recorded in Volume 53, page 262.
3. Easements granted to Alabama Power Company recorded in Volume 236, page 829.
4. Right of way granted to Alabama Power Company, recorded in Volume 139, page 127; Volume 133, page 210; Volume 126, page 191; Volume 126, page 192; Volume 126, page 323 and Volume 124, page 519.
5. Restrictions recorded in Instrument #1998/49152.

Parcel No.: 09 05 21 0 000 001.198

2. As explained in the Affidavit of Default filed by Plaintiff, service of process was completed on Forest Parks Defendants during October of 2022 under Ala. R. Civ. P.4(c). The Court finds that service on Forest Parks Defendants was proper, giving the

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<sup>1</sup> To the extent that any findings of fact constitute conclusions of law, or vice-versa, they shall be so regarded.

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Court personal jurisdiction over them consistent with the Due Process clause of the United States and Alabama Constitutions. Nevertheless, Forest Parks 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 Forest Parks 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, Forest Parks 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. Prior to the Tax Sale, A large tract of land containing the subject parcel was conveyed to Forest Parks, LLC by warranty deed dated September 17, 1996, and recorded in the Judge of Probate's Deed Book at Instrument 1996003115600000 on September 20, 1996. The parcel of land that is the subject of the instant matter is shown on the Plat of Forest Parks 9<sup>th</sup> Sector as recorded in Map Book 24, Page 138 A and B, and was assigned lot number 901. Upon information and belief, the 2008 ad valorem property taxes were not paid and the property was sold at a public auction in May of 2009 and J. Roy Weekley was the tax sale purchaser. Upon information and belief, the property was never redeemed from that tax sale and no tax deed was ever recorded in the name of J. Roy Weekley, but taxes were being assessed in his name at the time of the 2016 tax sale. Upon information and belief, J. Roy Weekly died on May 16, 2016. Upon information and belief Defendants, Terri Weekley, Jay Weekley, Josh Weekley and Jamie Perry, are the surviving spouse and children of J. Roy Weekley ("the Weekley's") and they may claim an interest in the property as the Heirs of J. Roy Weekley. Defendant, Forest Parks, LLC, a dissolved



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limited liability company, may claim an interest in the property as the last deeded owner. Upon information and belief, Defendant The Highway 43 Forest Parks Residential Association, Inc. may claim an interest in the property.

4. After the Weekley's and/or the Forest Parks 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 \$1,486.07. Forest Parks 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 issued to the Purchaser under Ala. Code § 40-10-19. Purchaser assigned the Tax Sale Certificate to Plaintiff, Guardian Tax AL, LLC by Assignment dated April 29, 2019. Then, after the expiration of the three-year administrative redemption period, the Shelby County, Alabama Probate court issued Plaintiff a Tax Deed to the Property, which is recorded in the county land records in Instrument 20200420000152930 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

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on the title and Forest Parks 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 Forest Parks 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 Forest Parks Defendants have admitted by virtue of their default. *See* Ala. Rules Civ. P. 12 and 55. Forest Parks 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 noticed 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 ...." *Ex parte Found. Bank*, 146 So.

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3d 1, 3 (Ala. 2013); *Heard v. Gunn*, 262 Ala. 283, 78 So.2d 313 (1955)); *see also Wall to Wall Properties v. Calence 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). Forest Parks 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 Forest Parks 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, Forest Parks 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.

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

1. Plaintiff shall have judgment against Defendants FOREST PARKS, LLC and THE HIGHWAY 43 FOREST PARKS RESIDENTIAL ASSOCIATION, INC.

2. The Weekley's are hereby dismiss from this action with prejudice based upon Plaintiff's Notice of Dismissal.

3. Plaintiff is declared to be the sole holder in fee simple of the Property. Forest Parks Defendants and those who might claim any right, title, interest in, or lien upon the Property through Forest Parks 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.

4. To the extent that Forest Parks 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.

6. Costs are taxed as paid.

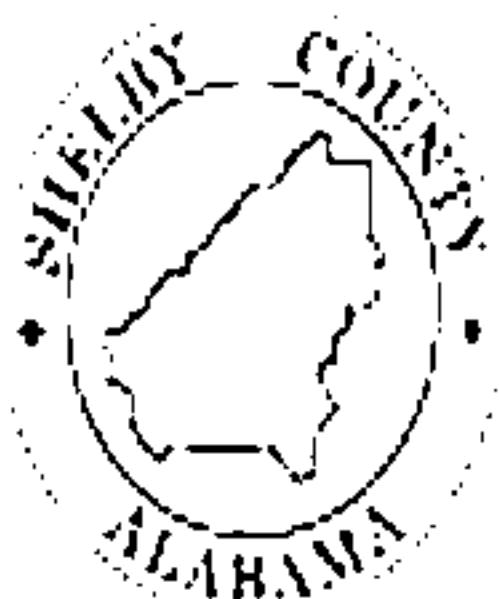
Done this the 9<sup>th</sup> day of August 2023.

Certified a true and correct copy

Date: 08/23/23

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

Patrick E. Kennedy  
Hon. Patrick E. Kennedy  
Circuit Judge



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Official Public Records  
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Clerk  
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