



IN THE CIRCUIT COURT OF CHEROKEE COUNTY, ALABAMA

MAXWELL DANA RAINEY,)	
Plaintiff,)	
)	
V.)	Case No.: CV-2010-000020.00
)	
WALLACE PATRICIA JOAN,)	
RHODES THERESA GARNER,)	
GARNER AARON S #127749 C1-105U,)	
RHINEHART MARTHA ET AL,)	
Defendants.)	

ORDER

This matter came before the Court on a Motion to Enforce the Sale of Property on February 10, 2014. Present were the Plaintiff, Dana Rainey Maxwell, with her attorney J. Shane Givens; Patricia Joan Wallace, with her attorney Evan W. Smith; Teresa Rhodes and Shane Twilley, both appearing pro se; and, Martha Rinehart as Power of Attorney for Aaron Garner. The parties previously settled the claims of Ron Wood and Hazel Silvers and Shane Twilley. The parties having been previously ordered to sell tracts of the real property, and not having carried out said sale as of the date of this order, therefore it is

ORDERED, ADJUDGED AND DECREED as follows:

1. That the Court finds that the Estate of Margaret Pauline Garner consists of real property located and situated in Cherokee County, Alabama, more particularly described as follows:

Tract 1

Commencing at a 5/8 re-bar marking the Southeast Corner of the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East; thence S893746W, a distance of 977.51 feet to a re-bar found marking the POINT OF BEGINNING; thence S893932W, with and along the South line of the North Half of the Northeast Quarter of said Section a distance of 258.39 feet to a re-bar set; thence N284401W a distance of 535.82 feet to a re-bar found on the southern boundary line of Cherokee County Road 18; thence with and along said southern boundary line the following chord dimensions N791006E, a distance of 247.93 feet; thence N724904E, a distance of 110.26 feet; thence N605445E, a distance of 72.28 feet; thence N512519E, a distance of 45.03 feet; thence N440547E, a distance of 31.74 feet to a re-bar found;

thence S355838W, a distance of 488.83 feet to a re-bar found; thence S475856E, a distance of 407.77 feet to the POINT OF BEGINNING, said described tract containing 2.6 Acres, more or less.

Tract 2

Commencing at a 5/8 re-bar marking the Southeast Corner of the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East; thence S893746W, a distance of 977.53 feet to a re-bar found; thence S893932W, a distance of 256.39 feet to a re-bar set marking the POINT OF BEGINNING; thence S893932W, with and along the South line of the North half of the Northeast Quarter of said Section 16, Township 11 South, Range 11 East, a distance of 969.54 feet to a 5/8 re-bar found on the southern boundary line of Cherokee County Road 16; thence with and along said southern boundary line described by the following chord dimensions N421934E, a distance of 250.06 feet; thence N454839E, a distance of 151.46 feet; thence N514317E, a distance of 86.42 feet; thence S563947E, a distance of 52.34 feet; thence N634011E, a distance of 96.68 feet; thence N715331E, a distance of 100.42 feet; thence N781908E, a distance of 142.06 feet to a re-bar found; thence S284401E, a distance of 536.82 feet to the POINT OF BEGINNING, containing 6.39 Acres, more or less.

Tract 3

Commencing at a pipe marking the Northwest Corner of the Northeast Quarter of Section 16, Township 11 South, Range 11 East; thence S020436W, a distance of 1769.90 feet to a re-bar marking the POINT OF BEGINNING thence continuing S020436W with and along the west line of said quarter a distance of 208.46 feet to a 5/8 re-bar found with a pine knot; thence continuing along said west line S035940W, a distance of 621.27 feet; thence S885515E, a distance of 78.30 feet to a 3/8 re-bar found; thence S060726E, a distance of 252.26 feet to a pipe found on the northern boundary line of Cherokee County Road 18; thence with and along said northern boundary line the following said dimensions N455429E, a distance of 300.39 feet; thence N425031E, a distance of 298.38 feet; thence N454839E, a distance of 156.11 feet; thence N515747E, a distance of 98.59 feet to a re-bar found; thence N411653W, a distance of 532.49 feet to a re-bar found; thence N750532W, a distance of 322.13 feet to the POINT OF BEGINNING, said described tract containing 9.80 Acres, more or less.

EXCEPTIONS AND RESERVATIONS

HAZEL SILVER PROPERTY -- INSTRUMENT 170766

1. There is excepted from the lands hereinabove described a parcel of land containing one (1) acre, more or less, lying and being situated in the Southwest Quarter of the

Northeast Quarter of Section 16, Township 11 South, Range 11 East, Cherokee County, Alabama, which said parcel of land is more particularly described as follows, to-wit: Commence at a inch pipe marking the Northwest corner of the Northeast Quarter of Section 16, Township 11 South, Range 11 East, thence run South 02 degrees 04 minutes 36 seconds West a distance of 1769.90 feet to a point; thence run South 75 degrees 05 minutes 32 seconds East a distance of 322.13 feet to a point; thence run South 41 degrees 16 minutes 53 seconds East a distance of 532.49 feet to a point located on the Northerly boundary line of the right of way of Cherokee County Road No. 18 (60 foot R/W); thence run along and with said right of way the following directions and distances: South 51 degrees 57 minutes 47 seconds West a distance of 98.59 feet; South 45 degrees 48 minutes 39 seconds West a distance of 156.11 feet; and South 42 degrees 50 minutes 31 seconds West a distance of 168.75 feet to a inch rebar, said point being the point of beginning of the parcel of land hereby conveyed. Thence from said point of beginning run South 42 degrees 50 minutes 31 seconds West a distance of 30.19 feet to a point; thence run North 53 34 minutes 42 seconds West a distance of 68.44 feet to a point; thence run North 74 degrees 59 minutes 49 seconds West a distance of 212.06 feet to a point; thence run North 14 degrees 46 minutes 10 seconds East a distance of 194.65 feet to a point; thence run South 74 degrees 59 minutes 49 seconds East a distance of 212.06 feet to a point; thence run South 14 degrees 46 minutes 10 seconds West a distance of 162.37 feet to a point; thence run South 53 degrees 34 minutes 42 seconds East a distance of 83.73 feet, more or less to the point of beginning.

RON WOOD PROPERTY -- INSTRUMENT 170764

2. There is excepted from the lands hereinabove described a parcel of land containing 1.4 acre, more or less, lying and being situated in the Southwest Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East, Cherokee County, Alabama, which said parcel of land is more particularly described as follows, to-wit: Commence at a 5/8 inch pipe marking the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East, thence run South 89 degrees 37 minutes 46 seconds West a distance of 977.51 feet to a point; thence run South 89 degrees 39 minutes 32 seconds West a distance of 1026.43 feet to a point, said point being the point of beginning of the parcel of land hereby conveyed. Thence from said point of beginning continue 89 degrees 39 minutes 32 seconds West a distance of 201.60 feet to a 5/8 inch rebar located on the Southerly boundary line of the right of way of Cherokee County Road No. 18 (60 foot R/W); thence run along and with said Southerly right of way the following directions and distances, to-wit: North 42 degrees 19 minutes 34 seconds East a distance of 250.06 feet to a point; thence North 45 degrees 48 minutes 39 seconds East a distance of 151.46 feet to a point; and, thence North 51 degrees 43 minutes 17 seconds East a distance of 86.42 feet to a point; thence leaving said right of way run South 33

degrees 20 minutes 13 seconds East a distance of 148.87 feet to a point marked by a inch rebar; thence run South 45 degrees 51 minutes 23 seconds West a distance of 313.60 feet, more or less, to the point of beginning.

DANA RAINEY MAXWELL and TONY MAXWELL, AS TENANTS IN COMMON --
INSTRUMENT 170202

3. There is excepted from the lands hereinabove described a parcel of land more particularly described as follows: Commencing at a 5/8 inch re-bar marking the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East; thence South 89 degrees 37 minutes 46 seconds West a distance of 977.51 feet to a inch re-bar found marking the Point of Beginning; thence South 89 degrees 39 minutes 32 seconds West, with and along the South line of the North Half of the Northeast Quarter of said Section a distance of 258.39 feet to a inch re-bar set; thence North 28 degrees 44 minutes 01 seconds West a distance of 536.82 feet to a inch re-bar found on the Southern boundary line of Cherokee County Road 18; thence with and along said Southern boundary line the following chord dimensions: North 79 degrees 10 minutes 06 seconds East a distance of 247.93 feet; thence North 72 degrees 49 minutes 04 seconds East a distance of 110.26 feet; thence North 60 degrees 54 minutes 48 seconds East a distance of 72.28 feet; thence North 51 degrees 25 minutes 19 seconds East a distance of 45.03 feet; thence North 44 degrees 05 minutes 47 seconds East a distance of 46.20 feet; thence North 41 degrees 53 minutes 22 seconds East a distance of 31.74 feet to a inch re-bar found; thence South 35 degrees 58 minutes 36 seconds West a distance of 488.63 feet to a inch re-bar found; thence South 47 degrees 58 minutes 56 seconds East a distance of 407.77 feet to the Point of Beginning; said described tract containing 2.6 acres, more or less.

SHANE TWILLEY

4. There is excepted from the lands hereinabove described a certain tract of land lying in the Southwest Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East, Cherokee County, Alabama, being more particularly described as follows:

Commence at a 5/8 inch rebar marking the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 11 East; thence run South 89 degrees 37 minutes 46 seconds West a distance of 977.51 feet to a point marked by a inch rebar; thence run South 89 degrees 39 minutes 32 seconds West a distance of 258.39 feet to a point marked by a inch rebar; thence run South 89 degrees 39 minutes 32 seconds West a distance of 271.68 feet to a point marked by a inch rebar, said point being the point of beginning of the tract of land hereby conveyed. From said point of beginning run North 28 degrees 11 minutes 02 seconds West a distance of 467.83 feet to a point on the Southerly boundary line of Cherokee

County Road No. 18; thence run North 70 degrees 36 minutes 44 seconds East a distance of 48.49 feet to a point; thence run North 74 degrees 39 minutes 58 seconds East a distance of 90.22 feet to a point; thence run North 78 degrees 52 minutes 36 seconds East a distance of 103.76 feet to a point, said point being marked by a inch rebar; thence run South 28 degrees 44 minutes 01 seconds East a distance of 536.82 feet to a point marked by a inch rebar; thence run South 89 degrees 39 minutes 32 seconds West a distance of 271.68 feet to the point of beginning of the tract of land hereby described.

Said lands are subject to any and all existing easements and rights of way for roadways and utility lines and systems.

All said lands being located and situated in Cherokee County, Alabama.

2. That the subject property cannot be equitably divided or partitioned in kind.
3. That the subject property shall be sold at auction at the Cherokee County Courthouse, Centre, Alabama, on Saturday, April 26th, 2014, at 11:00 o'clock A.M. or as near thereafter as practicable. The sale shall be conducted by Auction United and shall be to the highest bidder.
4. The sale shall be advertised in the Cherokee County Herald, a newspaper of general circulation in Cherokee County, Alabama, for four (4) successive weeks prior to the sale.
5. That this Court's order of July 19, 2011 having previously ordered the parties to reimburse Plaintiff Dana Rainey Maxwell for the pro-rated taxes she has paid on the entire property since 1998, and the Plaintiff not having been reimbursed by the Estate of Margaret Pauline Garner as of the filing of her Motion to Enforce Sale, the sum of \$1,723.85 shall be paid to Plaintiff from the sales proceeds.
6. The sale shall be subject to confirmation by the Court. The Clerk shall distribute proceeds of the sale as follows: Auctions United commission of 10%; Clerks commission of 1%; advertising expense and other expenses of the sale; court costs; attorney's fees; claims against the Estate of Margaret Pauline Garner; \$1,723.85 to Dana Rainey Maxwell as reimbursement for taxes paid on the property; and, the remaining proceeds shall be distributed between the heirs of Margaret Pauline Garner, with Teresa Rhodes not to share in the proceeds of the said sale.
7. The issue of attorney's fees is reserved and counsel for the Plaintiff and the Defendants shall prepare the appropriate legal notice of sale for the newspaper.
8. That other relief shall await the further order of the Court.

DONE this 17th day of March, 2014.