

BOOK 5 PAGE 280

FILED
THIS DATE
NOV 21 1988

BILLY V. COOPER
CHANCERY CLERK

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

HERMAN HANNAH AND
MARY HANNAH

PLAINTIFFS

VS.

CIVIL ACTION, FILE NO. 29-361

13040

T. LARRY WALTMAN,
MARTIN J. WALTMAN,
BENTLEY E. CONNER,
Individually and as Trustee
For Ascot Mortgage, Inc., AND
ASCOT MORTGAGE, INC.

DEFENDANTS

LIS PENDENS NOTICE

I.

PARTIES

As set forth above, the plaintiffs are HERMAN HANNAH and MARY HANNAH, and the defendants are T. LARRY WALTMAN, MARTIN J. WALTMAN, BENTLEY E. CONNER, Individually and as Trustee for Ascot Mortgage, inc. and ASCOT MORTGAGE, INC., in a Complaint For Enforcement of Equitable Lien and To Set Aside Fraudulent Conveyances.

II.

DESCRIPTION OF REAL ESTATE

The real estate involved in this litigation is lying and situated in Madison County, Mississippi, and is more particularly described as follows, to-wit:

A lot or parcel of land fronting 440.17 feet on the south side of Davis Road, containing 3.57 acres, more or less, lying and being situated in the NW $\frac{1}{4}$ of Section 29, Township 10 North, Range 3 East, Madison County, Mississippi, and more particularly described as follows:

Commencing at the NW corner of the James A. Stewart property conveyed by deed recorded in Deed Book 231 at page 439 in the records of the Chancery Clerk of said county, said NW corner being the intersection of the west line of NE $\frac{1}{4}$ of said Section 29 with the south margin of Davis Road according to said Stewart deed; thence N 88° 25' 15" W along the south margin of said Davis Road for 50 feet to its intersection with the west line of said James A. Stewart easement (Deed Book 231, Page 439) said intersection being the NE corner and point of beginning of the property herein described; thence N 88° 25' 15" W along the south margin of said road for 440.17 feet to a point; thence

S 00° 11' 43" W for 358.40 feet to a point; thence S 89° 45' 40" E for 440.0 feet to a point on the west line of said easement; thence N 00° 11' 43" E along the west line of said easement for 348.10 feet to the point of beginning.

III.

NATURE OF THE LIEN, RIGHT AND INTEREST SOUGHT TO BE ENFORCED

The plaintiffs are seeking a Judgment against all of the defendants, jointly and severally, in the amount of \$28,500.00, together with prejudgment interest at the legal rate on the sum of \$5,000.00 from and after June 6, 1988, and prejudgment interest at the legal rate on the sum of \$23,500.00 from and after June 16, 1988.

In addition, the plaintiffs claim that a constructive trust has arisen in their favor by operation of law and that they have and are entitled to enforce an equitable lien against the above described property to secure and enforce the collection of the indebtedness owed to them, which amount represents sums advanced by the plaintiffs to defendant T. Larry Waltman and accepted and used by him for the payment of labor and materials expended in connection with the construction of a new residence upon the subject property.

The plaintiffs allege that all of the defendants had actual notice and full knowledge of the plaintiffs equitable lien against the subject property.

The plaintiffs allege that the following conveyances, to-wit:

1. Warranty Deed dated November 10, 1988, and executed by defendant T. Larry Waltman to defendant Martin J. Waltman and recorded in Deed Book 247 at page 29 in the office of the Chancery Clerk of Madison County, Mississippi;
2. Deed of Trust dated November 10, 1988, executed by defendant Martin J. Waltman to defendant Bentley

- E. Conner, as trustee for defendant Ascot Mortgage, Inc., recorded in Deed of Trust Book 665 at page 530 in the office of the Chancery Clerk of Madison County, Mississippi;
3. Deed of Trust dated November 10, 1988, executed by defendant Martin J. Waltman to defendant Bentley E. Conner as trustee for defendant Ascot Mortgage, Inc., recorded in Deed of Trust Book 665 at page 600 in the office of the Chancery Clerk of Madison County, Mississippi; and
4. Deed of Trust dated November 10, 1988, executed by defendant Martin J. Waltman to defendant Bentley E. Conner as trustee for defendant Ascot Mortgage, Inc., recorded in Deed of Trust Book 665 at page 644 in the office of the Chancery Clerk of Madison County, Mississippi

are fraudulent conveyances, made and entered into with the intent to hinder, delay and defraud the plaintiffs in their collection of the just indebtedness owed to them, and the plaintiffs seek to set aside and cancel each of said instruments as fraudulent conveyances.

The plaintiffs are asking that the subject property be sold by court order, and that the proceeds of such sale be used to pay and satisfy in full the indebtedness owed to them.

THIS the 21st day of November, 1988.

HERMAN HANNAH AND
MARY HANNAH

BY: *J. M. Ritchey*
J. M. RITCHIEY, THEIR
ATTORNEY

OF COUNSEL:
J. M. RITCHIEY
Attorney at Law
133 South Union Street
P. O. Box 286
Canton, MS 39046
Telephone: (601) 859-4141



STATE OF MISSISSIPPI, County of Madison:

I certify that the within instrument was filed for record in my office this 21 day of Nov, 1988, at 3:30 o'clock P.M., and was duly recorded on the NOV 21 1988, Book No. 5, Page 280.

BILLY V. COOPER, CHANCERY CLERK BY: S Cole D.C.