

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

In re:
CHARLIE M. HAMRICK,

Case No.: 15-31137-KKS
Chapter 7

Debtor.

JOHN E. VENN, JR.,

Plaintiff,

v.
MARION D. GRIZZLE,

Defendant.

BK Ct. Adv. Proc. No.: 16-03020-KKS
Dist. Ct. Case No.: 3:17-cv-00818-MCR-EMT

JOHN E. VENN, JR.

Plaintiff,

vs.

Dist. Ct. Case No.: 3:17-cv-00818-MCR-EMT
PROCEEDINGS SUPPLEMENTARY

WALTER I. MILLER, III,

Defendant.

FINAL JUDGMENT

THIS MATTER, having come before the Court on the Stipulation to Entry of Final Judgment (the "Stipulation") filed by Plaintiff, JOHN E. VENN, JR. and Defendant, WALTER I. MILLER, III, and the Court, having reviewed the

Stipulation and the Court file, and being otherwise fully advised in these premises, finds that a Final Judgment is due to be GRANTED in the Trustee's favor. It is, therefore,

ORDERED as follows:

1. Plaintiff, JOHN E. VENN, JR. (the "Trustee"), whose address is 1333 College Parkway # 154, Gulf Breeze, FL 32563, is entitled to the entry of this Judgment based on (i) the allegations in that certain Complaint that this Court authorized the Trustee to file and serve¹ against Defendant, WALTER I. MILLER, III ("Miller"); (ii) the Affidavit Miller executed following the Trustee's service of the Complaint; and (iii) the Stipulation.

2. The Trustee in his Complaint against Miller sought various forms of relief regarding a transfer by Judgment Debtor, MARION DEAN GRIZZLE ("Grizzle") to Miller of the following-described real property situated in Adel, Cook County, Georgia pursuant to that certain Warranty Deed (the "Deed") dated July 18, 2017 that is duly recorded in Official Records Book 816, Page 178 of the public records of Cook County, Georgia:

Tract 1: All that tract or parcel of land situate, lying and being in Land Lot 374, 9th Land District, Cook County, Georgia, and being 1.71 acres, all according to a plat of survey prepared by Hogan Surveying Company, Registered Land Surveyor, dated January 6, 1999, and recorded in Plat File 130, page 7, Cook County, Georgia Deed Records, which plat is incorporated herein and made a part of this description.

¹ECF 90 at p. 2, ¶ 3.

Tract 2: All that tract or parcel of land situate, lying and being 26.20 acres in Land Lot 374, 9th Land District of Cook County, Georgia, and more particularly described in plat of survey prepared by Roy C. Hogan, dated November 23, 1993 and recorded in Plat File 68, page 4, Cook County, Georgia Deed Records, which plat by reference thereto is incorporated herein and made a part of this description. Said tract is bounded on the North part of way by lands of Charles Giddens and the City of Adel; East and South by lands of Ashley; and West by lands of R. E. Hendley (collectively, the "Property")

3. Pursuant to Chapter 726, Florida Statutes, this Court hereby avoids the transfer of the Property from Grizzle to Miller pursuant to the Deed, and orders the Property to be considered for any and all purposes to be validly and lawfully conveyed to the Trustee pursuant to that certain Quitclaim Deed that Miller has executed and delivered to the Trustee conveying all of Miller's right, title, and interest in the Property to the Trustee. The Quitclaim Deed is duly recorded in Official Records Book 867, Page 166-167 of the public records of Cook County, Georgia, and is incorporated into this Final Judgment by reference.

4. This Court divests, extinguishes, and terminates any right, title, or interest in or to the Property that Grizzle may have otherwise owned or enjoyed.

5. The Trustee may record a copy of this Final Judgment in the public records of Cook County, Georgia so that any individual or entity examining the title to the Property may rely upon this Final Judgment as conclusive record evidence of the Trustee's ownership of the Property.

6. Pursuant to section 56.29(6), Florida Statutes, to effectuate the relief granted in this Final Judgment, Grizzle is hereby enjoined as follows:

- a. Neither Grizzle, nor any individual or entity acting on behalf of Grizzle, may enter, visit, or attempt to access the Property;
- b. Within forty-eight (48) hours of the entry of this Final Judgment, Grizzle must turn over to the Trustee all keys to any residence, building, or other type of improvement that may be situated on the Property.
- c. To the extent that any title insurance company requires the execution of any other instrument in order to insure marketable title to the Property in the name of the Trustee, Grizzle must cooperate by promptly executing any such instrument within three (3) business days of the Trustee's presentation of such instrument to Grizzle's counsel of record.
- d. Grizzle must cooperate with the Trustee with respect to the transfer into the Trustee's name of any and all utility services to the Property.

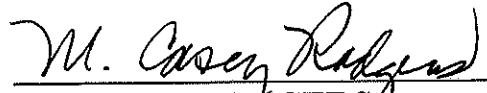
7. For the avoidance of doubt, and based on the contents of Miller's Affidavit, the Court affirmatively states that Miller has not done anything wrong even though this Court authorized the Trustee to file a fraudulent transfer action against Miller pursuant to Chapter 726, Florida Statutes. The Court applauds Miller for his candor in this process.

8. Miller is not indebted to the Trustee for any monetary sum, and does not have any *in personam* liability to the Trustee or the bankruptcy estate of the Chapter 7 Debtor, Charlie M. Hamrick.

9. The Complaint the Trustee filed against Miller sought an award of the attorney fees and costs incurred in the prosecution of this action. Section 56.29(8), Florida Statutes, provides that "[r]easonable attorney fees may be traced against *the judgment debtor*" in the context of a proceedings supplementary, from which the Trustee's fraudulent transfer action against Miller derives. § 56.29(8), Fla. Stat. (2019) (emphasis added). The Court hereby awards the Trustee the attorney fees and costs that the Trustee incurred in the prosecution of this action against Miller, with the caveat that such fee/cost award is taxed solely against Grizzle.

10. The Court retains jurisdiction to determine the reasonable amount of such attorney fee/cost award, and to enforce compliance with the terms of this Final Judgment as necessary through the Court's contempt powers.

DONE and ORDERED this 8th day of October, 2019.



M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE

Conformed copies:
Robert J. Powell, Esq.
William E. Bond, Jr., Esq.
T.A. Borowski, Jr., Esq.
D. Steve Traylor, Esq.

I HEREBY CERTIFY that this is a true and correct copy of the original on file in the office of the Clerk, United States Bankruptcy Court for the Northern District of Florida.

TRACI ABRAMS, Clerk, Bankruptcy Court

By 

Deputy Clerk