

IN THE COUNTY COURT OF DESOTO COUNTY, MISSISSIPPI

CIVIL DIVISION

RUDOLPH BUMPOUS	PLAINTIFF/COUNTER-DEFENDANT
VERSUS	#CO2001-0637
BRENDA RILEY BUMPOUS HURT	DEFENDANT/COUNTER-PLAINTIFF
VERSUS	
JANIE INGRAM BUMPOUS	THIRD PARTY DEFENDANT

ORDER

This case was tried and taken under advisement. The Court now rules.

Plaintiff Rudolph Bumpous and his wife, Janie Ingram Bumpous, Third Party Defendant, built, owned and operated the Chatterbox Restaurant in DeSoto County. Their son, Donald Bumpous, and his former wife, Brenda Riley Bumpous Hurt, Defendant/Counter-Plaintiff, bought the restaurant and the one acre of land it is on in March of 1996. Donald and Brenda executed a promissory note to both parents for \$100,000.00, received a warranty deed to the property and gave a deed of trust to secure payment of the note. Donald and Brenda were divorced in March of 1999 and Brenda was awarded the land and restaurant.

Rudolph Bumpous alleges in his Complaint that he sold his interest in the land and restaurant to his son and Brenda in a separate oral agreement for \$50,000.00 of which only \$20,000.00 has been paid and demands from Brenda the balance with interest. In her response Brenda denies such an agreement was ever made. Her counter claim is that the \$100,000.00 note has been paid and requests this Court to declare the note satisfied and to cancel the deed of trust.

Due to health problems Rudolph Bumpous did not testify. However, Janie Bumpous and her son, Donald, testified and agreed that a separate oral agreement was made for Donald and

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DALE K. THOMPSON, CIRCUIT CLERK
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Brenda to pay Rudolph \$50,000.00 at the rate of \$500.00 per month for his interest in the land and restaurant. Janie Bumpous agreed the \$100,000.00 note had been paid in full.

When Plaintiff rested his case the Court took under advisement Defendant/Counter-Plaintiff's motion to dismiss the Complaint on grounds that the oral agreement was barred by the statute of frauds, Section 15-3-1, MCA 1972, as amended.

Through her testimony Brenda Riley Bumpous Hurt denied a separate oral agreement with Rudolph Bumpous for \$50,000.00 as payment for his interest in the land and restaurant, but admitted that upon purchase of the property her former husband, Donald Bumpous, told her to pay Rudolph Bumpous \$500.00 per month to do maintenance and repair work at the restaurant as needed. She stopped those payments when Rudolph Bumpous quit doing the maintenance work during the divorce action.

The Court finds that if in fact there was a separate oral agreement for Donald Bumpous and Brenda Riley Bumpous Hurt to pay Rudolph Bumpous \$50,000.00 for his interest in the land and restaurant, such would be a contract for the sale of lands, etc., and, pursuant to the statute of frauds, Section 15-3-1, MCA 1972 as amended, no action would be allowed. The applicable language is as follows: "An action shall not be brought whereby to charge a defendant or other party: ... (c) upon any contract for the sale of lands, ... unless... the promise or agreement upon which such action may be brought... shall be in writing, and signed by the party to be charged therewith..." This action is barred by the above cited law.

The Court further finds that the promissory note dated March 14, 1996, has been paid in full accord and satisfaction and the deed of trust should be canceled.

IT IS ORDERED that the Complaint filed herein is dismissed with prejudice and that the promissory note dated March 14, 1996, to Janie and Rudolph Bumpous by Donald and Brenda

Bumpous, now Hurt, is declared satisfied and canceled. The deed of trust entered into by and between Donald I. Bumpous and Brenda R. Bumpous, now Hurt, for the benefit of Janie Ingram Bumpous and Rudolph Bumpous found in Book 815 at page 716 in the Chancery Clerk's office of DeSoto County, Mississippi, is declared fully satisfied and canceled. A certified copy of this Order shall be forwarded to the Chancery Clerk's office of DeSoto County, Mississippi, and recorded in the Deed of Trust records and the said Clerk is authorized and directed to note such cancellation upon the margin of the said recorded Deed of Trust.

The clerk of this Court is requested to forward a copy of this Order to all attorneys of record and to all parties not represented by an attorney.

ORDERED this the 19th day of December, 2003.


COUNTY COURT JUDGE

Property described in the Deed of Trust is in the southwest quarter of the northeast quarter of Section 19, Township 3 South, Range 5 West in DeSoto County, Mississippi

**STATE OF MISS., DESOTO COUNTY
CERTIFIED A TRUE COPY**

DEC 19 2003

DALE K. THOMPSON, CIRCUIT CLERK

BY L. Burns D.C.

STATE MS.-DESOTO CO. *me*
CLERK *me*

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J.E. DAVIS CH. CLK.