

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

WILLIAM F. MURPHREE, ET UX, ET AL,

PLAINTIFFS

VS.

NO. 85-4-207

U. G. MEDLEY  
AND  
PAUL SKELTON,

DEFENDANTS

FINAL DECREE

This cause came on to be heard in Vacation on the 14th day of October, 1985 upon the filed, verified Complaint For Declaratory Relief and Injunction filed in this cause by the Plaintiffs, upon the Defendants' filed Answer and Crossbill, upon the filed Answer to Affirmative Matters in Defendants' Answer to Count I and Answer to Count II and Answer of Cross-defendant to Crossclaim filed in the cause by the Plaintiffs/Cross-defendants and the Amended Answer of the Cross-plaintiffs, upon a written filed Stipulation of Facts and upon evidence heard and taken in open court. That thereafter pursuant to order of this court the Plaintiffs and Defendants filed herein their respective written briefs and the matter came on to be heard upon oral argument before the court on the 10th day of December, 1985 at which time after hearing argument of counsel the court rendered its oral opinion. That said cause was thereafter taken under advisement for entry of final decree. That the court being fully advised in the premises and having rendered its oral opinion doth decree as follows:

It is hereby Ordered, Adjudged and Decreed by the court that Wheeler Farms Subdivision, Wheeler Farms Subdivision First Addition and Wheeler Farms Subdivision Second Addition are hereby found to be one subdivision consisting of thirteen (13) total lots. That the building of a commercial establishment on Lot 13 is prohibited by the restrictive covenants for the subdivision until such time as the restrictive covenants for the subdivision are altered or amended pursuant to the terms of said restrictive covenants so as to allow a commercial building to be constructed thereon.

It is Ordered, Adjudged and Decreed that the Defendants, U. G. Medley and Paul Skelton are in violation of the restrictive covenants of the subdivision by

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H. G. FERGUSON, CLERK

BY J. Kish D.C.

their attempt to build a commercial building upon Lot 13 of Wheeler Farms Subdivision and that the building of a commercial building upon said lot by the Defendants violates the restrictive covenants for said subdivision and that commercial buildings upon any lot within the subdivision is prohibited by the restrictive covenants of the subdivision.

It is Ordered, Adjudged and Decreed that the action of DeSoto County, Mississippi in zoning a portion of Lot 13 for commercial use pursuant to the County's Zoning Ordinance of January 3, 1983, does not abrogate nor override the restrictive covenants for the subdivision and that the restrictive covenants for the subdivision prevail over said zoning law and accordingly Lot 13 nor any portion thereof which has been rezoned by the County to a C-1 zoning classification can be used for the construction of a commercial building on said Lot.

It is Ordered, Adjudged and Decreed that the owner of any lot within the subdivision known as Wheeler Farms, Wheeler Farms, First Addition and Wheeler Farms, Second Addition has the right to enforce the restrictive covenants within any section and/or addition of the subdivision. That the subdivision known as Wheeler Farms Subdivision consists of thirteen (13) lots being located in the subdivision platted as Wheeler Farms Subdivision, Wheeler Farms Subdivision, First Addition and Wheeler Farms Subdivision, Second Addition.

It is Ordered, Adjudged and Decreed that each lot within the subdivision has one (1) vote regarding the amendment of the restrictive covenants of the subdivision and that it shall take seven (7) votes in order to amend the restrictive covenants. That seven (7) votes is considered the majority vote as contemplated by the restrictive covenants.

It is further Ordered, Adjudged and Decreed that as between the parties to the proceeding the DeSoto County Zoning Ordinance adopted January 3, 1983 is valid and not found by the court to be unconstitutional.

It is further Ordered, Adjudged and Decreed that a "lot" as referred to in the restrictive covenants for the subdivision refers to the lots as originally platted and as they presently exist, the court finding that said lots have not been altered in size since the filing of the plats for said subdivision.

It is further Ordered, Adjudged and Decreed that Lot 13 is subject to the restrictive covenants for the subdivision; that said lot as of this date is described by the plat of said subdivision and that Lot 13 can only have one residential house constructed thereon to be built in accordance with the restrictive covenants for the subdivision.

It is further Ordered, Adjudged and Decreed that the court does not find that Lot 13 cannot be resubdivided however in the event of resubdivision of Lot 13 said Lot 13 can only have one residential house constructed thereon pursuant to the terms of the restrictive covenants no matter how many lots might be subdivided within said Lot 13.

It is further Ordered, Adjudged and Decreed that the Defendants, U. G. Medley and Paul Skelton are hereby permanently enjoined from constructing on the herein-after described real property any building, structure or improvement of any commercial nature until such time as the restrictive covenants for Wheeler Farms Subdivision being Wheeler Farms Subdivision, Wheeler Farms Subdivision, First Addition and Wheeler Farms Subdivision, Second Addition are amended and are altered so as to allow said construction or terminated as provided in said restrictive covenants. That said real property to which this injunction shall apply is hereby described as follows:

10.01 acres, situated in the Southeast Quarter of Section Twelve (12), Township Four (4), Range Eight (8) West, located on the West side of U. S. Highway No. 51, and being more particularly described as follows, to-wit;

Lot No. Thirteen (13) of the "Division of Wheeler Farms, Second Addition" as shown on the Subdivision Plat of same prepared by H. Carey Webb, Civil Engineer, in November, 1977, and of record in Plat Book 16, Page 22 in the Chancery Court Clerk's Office, DeSoto County, Mississippi, and to which plat full reference is now made for a more particular description of said lands.

It is further Ordered, Adjudged and Decreed that all court costs incurred herein are hereby assessed to the Defendants for which let execution issue and further that the clerk of this court shall file a copy of said decree in the land records of the county.

SO ORDERED, ADJUDGED AND DECREED on this the 19<sup>th</sup> day of December, 1985.

*William B. Baker*  
CHANCELLOR

AGREED TO AS TO CONTENT AND FORM:

*William M. May*  
ATTORNEY FOR PLAINTIFFS

*Paul Skelton*  
ATTORNEY FOR DEFENDANTS

Filed @ 4:30 P.M., Dec. 20, 1985  
Recorded in Book 183 Page 505  
H. G. Ferguson, Clerk