

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

HERNANDO HILLS COUNTRY CLUB, INC.

PLAINTIFF

VERSUS

CAUSE NO. 00-6-798M

BILLY G. MAY, DALLAS W. MAY, HAL D. CRENSHAW,
HERNANDO HILLS DEVELOPMENT PARTNERS, LLC,
GREEN T LAKES COUNTRY CLUB, INC., ET AL,

DEFENDANTS

PARTIAL SUMMARY JUDGMENT TO QUIET AND CONFIRM TITLE, REMOVE
CLOUDS FROM TITLE AND VACATE PLAT ONLY

THIS CAUSE CAME ON FOR HEARING upon the Plaintiff's Motion for Partial Summary Judgment to Quiet and Confirm Title, Remove Clouds from Title and Vacate Plat Only. Notice was given to all remaining Defendants in accordance with the Rules of Civil Procedure. After considering the Motion, the Affidavit of Gary Higdon, President of Hernando Hills Country Club, Inc., the Complaint to Quiet and Confirm Title, Remove Clouds from Title, Vacate Plat and for Declaratory Judgment, and the answers filed by or on behalf of the remaining Defendants and all other pleadings of record, the Court finds as follows:

1. On or about June 2, 2000 Plaintiff filed a Complaint to Quiet and Confirm Title, Remove Clouds from Title, Vacate Plat and for Declaratory Judgment naming numerous Defendants who may be categorized as follows:

A. Billy G. May and Dallas W. May from whom Plaintiff purchased

subject property and hold a Deed of Trust against the property;

B. Hal D. Crenshaw who conveyed any interest he had in the property

purchased by the Plaintiff and who may own an interest in adjoining property individually as or a member of Hernando Hills Development Partners, LLC;

C. Hernando Hills Development Partners, LLC, Roy L. Valentine,

Margaret M. Valentine and Carmen Wade Scruggs who own lots which encroach on the plat which the Plaintiff seeks to vacate along with BancorpSouth Bank f/k/a

STATE MS - DESOTO CO.

MAR 5 10 29 AM '02

BK 413 PG 231
W.F. DAVIS CLK.

FILED

FEB 21 2002

W E DAVIS, CLERK

Bank of Mississippi which holds a security interest in lots which encroach on said plat;

D. Green T Lakes Country Club, Inc., a predecessor in title to the property;

E. Former members of Green T Lakes Country Club, Inc. Approximately ninety-six (96) former members were identified in the Complaint. Of those approximately sixty-seven (67) did not file an answer or otherwise defend against the Complaint and Default Judgments have been entered against them. The remaining Defendants in this category are as follows:

Nancy M. Ball Liddell, Esq.
William P. Myers, Esq.
Danny L. Williams
Milton Jones, III
John Henry Miller
Laney Funderburk
William and Laura Bailey
Tommy Carpenter
Bowdre Emerson
Wayne Harris
Sam Lauderdale
Marsha W. Shaddock
Bernard H. Reinike
Stanley E. Taylor, Jr.
The Estate of William Huckaby, Deceased
Billy J. Sudduth
Billy Baker
Darnell Ray Miller
Robert P. Cooke, III
Keith Bramlett
Paul Hull Emerson
James E. Hahn
Joseph F. Lauderdale
Ricky Leigh
F. Pat Owen
Mike Robison
Steve and Ashley Tuttle

In addition, publication was made for any unknown members of Green T Lakes Country Club, Inc. between June 1, 1988 and January 5, 1993;

F. The City of Hernando is owner of the right of way on which the subject plat encroaches and is now the governmental body with authority to approve subdivision plats concerning the subject property;

G. Publication was made for any and all other persons having or claiming to have any legal or equitable interest in the land described in the Complaint.

H. Roy O. Vaughn & Sherry O Vaughn were omitted from the petition but were also former members of the Green T Lakes Country Club and have now joined this proceeding.

2. Plaintiff is the owner in fee simple of land in DeSoto County, Mississippi described on Exhibit "A" attached to the Complaint filed herein.

3. Title to the subject property was patented from the United States of America on October 6, 1840 and title was deraigned in paragraphs 4 through 14 of the Complaint filed in this cause.

4. As set forth more particularly in paragraph 10 of the Complaint, a plat was recorded in Plat Book 23 at Page 24 in the Office of the Chancery Clerk of DeSoto County, Mississippi. Other plats have been recorded which overlap said plat. Said plat serves no purpose and casts a cloud on the title of the Plaintiff and Defendants Valentine, Scruggs, Hernando Hills Partners, LLC, BancorpSouth Bank and the City of Hernando and should be vacated.

5. As more particularly described in paragraph 11 of the Complaint, a call in the description of one of the tracts purchased by the Plaintiff was omitted in a Deed from Earnest L. Sowell, Jr., et al to Green T Country Club, Inc. dated January 24, 1985 and recorded in Deed Book 176, Page 96 in the Office of the Chancery Clerk of DeSoto County, Mississippi. The missing call is "north 5 degrees, 26 minutes east 55.87 feet" and should be inserted between "east line of Lot 76 of said subdivision;" and "thence north 8 degrees, 39

minutes east 212.76 feet.” The missing call is located on the plat of J. F. Lauderdale, P.E., dated July 17, 1984 which plat is recorded in Plat Book 23 at Page 24 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

6. The error of the missing call was repeated in the Deed from Green T Lakes Country Club, Inc. to Billy G. May and Dallas W. May dated January 5, 1993, recorded in Deed Book 253, Page 221 in the Office of the Chancery Clerk of DeSoto County, Mississippi, a copy of which was attached to the Complaint as Exhibit “B.” Said Deed is vague and ambiguous with regard to provisions outside the normal scope of a warranty deed. According to some interpretations, certain members of Green T Lakes Country Club, Inc. may be entitled to a sum of money to be paid from the proceeds of any sale by the Mays. Consequently, a portion of the purchase price paid by the Plaintiff was escrowed in an amount believed to be sufficient to pay such amounts, if any, that the Court may later deem appropriate. Accordingly, said provisions of the Deed should not be construed to cast a cloud upon the property. Several answers have been filed addressing the construction of those provisions as they pertain to the payment of money only and thus summary judgment is not sought with regard to the issue of what sums, if any, are due to Defendants.

7. Based upon the Complaint, answers and other pleadings filed in this cause and the Affidavit of Gary Higdon, President of Hernando Hills Country Club, Inc. which was attached to the Motion for Partial Summary Judgment as Exhibit “B,” and considering the arguments of counsel, the Court finds there is no genuine issue as to any material fact and the Plaintiff is entitled to a Judgment as a matter of law with regard to the title issues and the vacation of plat in Plat Book 23, Page 24.

ACCORDINGLY, IT IS HEREBY ORDERED AND PARTIAL SUMMARY JUDGMENT IS HEREBY GRANTED to the Plaintiff as follows:

1. Title to the property on Exhibit "A" attached hereto is hereby confirmed in the Plaintiff. The Deeds recorded in Deed Book 176, Page 96 and Deed Book 253, Page 221 in the Office of the Chancery Clerk of DeSoto County, Mississippi are hereby reformed such that the missing call "north 5 degrees, 26 minutes east 55.87 feet" shall be inserted between "east line of Lot 76 of said subdivision;" and "thence north 8 degrees, 39 minutes east 212.76 feet." Any clouds cast upon the title of the property as a result of the missing call are hereby removed.

2. The provisions of the Warranty Deed Green T Lakes Country Club, Inc. to Billy G. May and Dallas W. May dated January 5, 1993, recorded Deed Book 253, Page 221 in the Office of the Chancery Clerk of DeSoto County, Mississippi which some Defendants contend require that they be paid sums of money shall be construed by the Court after a hearing to determine the same to be held at a later date. Plaintiff has made adequate provisions to protect the rights of the Defendants until final adjudication is made by this Court as to the Defendants' entitlement to money. Any clouds which said Deed may cast upon the title to the property are hereby removed.

3. The plat recorded in Plat Book 23, Page 24 in the Office of the Chancery Clerk of DeSoto County, Mississippi is hereby vacated and held for naught.

4. A copy of this order shall be recorded in the land records of the Chancery Clerk of DeSoto County, MS.

SO ORDERED, ADJUDGED AND DECREED, this the 20th day of February, 2002, effective February 11, 2002, *nunc pro tunc*.


CHANCELLOR


STATE OF MISSISSIPPI COUNTY OF DESOTO
I HEREBY CERTIFY that the above and foregoing is
a true copy of the original filed in this office.
This the 20th day of February, 2002
W. E. Davis, Clerk of the chancery court
By J. R. King D.C.

D E S C R I P T I O N
TRACT NO. 5

Part of the Northeast Quarter of Section 6, Township 3 South, Range 7 West, DeSoto County, Mississippi and being more particularly described as follows, to-wit:

Commencing at a point on the centerline of Green T Road commonly accepted as the northeast corner of said Section 6; thence run South $00^{\circ}14'06''$ East a distance of 1138.98 feet along the east line of said quarter section to a point; thence run South $89^{\circ}45'54''$ West a distance of 1660.34 feet to the northeast corner of Lot 78 of Green Lake Subdivision, Section D, First Revision, said point being on the south right-of-way line of Palmer Drive and the Point of Beginning; thence run the following calls along said south right-of-way line to the northeast corner of Lot 196 of Fairway Grove as recorded in Plat Book 60 on Page 22 and 23 of the Chancery Records of said county:

South $52^{\circ}49'15''$ East 74.47 feet
 Curve left: Arc= $113.96'$, D= $23^{\circ}44'39''$, R= $275.00'$
 Ch.Dir.=S $64^{\circ}41'34''$ E, L.Ch.= $113.15'$
 South $76^{\circ}33'53''$ East 254.06 feet
 Curve right: Arc= $191.15'$, D= $87^{\circ}36'56''$, R= $125.00'$
 Ch.Dir.=S $32^{\circ}45'25''$ E, L.Ch.= $173.06'$
 South $11^{\circ}03'03''$ West 81.77 feet
 Curve left: Arc= $72.30'$, D= $15^{\circ}03'50''$, R= $275.00'$
 Ch.Dir.=S $03^{\circ}31'08''$ W, L.Ch.= $72.09'$

thence run North $87^{\circ}18'17''$ West a distance of 554.80 feet along the north line of said Fairway Grove to the southeast corner of Lot 77 of said Green T Subdivision, Section D, First Revision; thence run North $07^{\circ}30'31''$ East a distance of 212.48 feet along the east line of said Lot 77 to the southeast corner of said Lot 78; thence run North $11^{\circ}47'46''$ East a distance of 216.72 feet to the Point of Beginning and containing 4.12 acres, more or less. Bearings are based on true north as determined by solar observation.