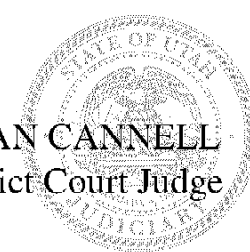


Ent 1258165 Bk 2177 Pg 1491
Date 02-Sep-2020 02:19PM Fee \$40.00
Michael Gleed, Rec. - Filed By SA
Cache County, UT
For US TITLE INSURANCE AGENCY
Electronically Submitted by Simplifile

The Order of the Court is stated below:

Dated: August 31, 2020
02:13:02 PM

/s/ BRIAN CANNELL
District Court Judge



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IN THE FIRST JUDICIAL DISTRICT COURT
CACHE COUNTY, STATE OF UTAH
Court Address: 135 North 100 West, Logan, Utah 84321

AI – LOGAN PROPCO, LLC

Plaintiff,

vs.

BARNES BANKING COMPANY

Defendant.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

Case No. 200100178

Judge: BRIAN CANNELL

The matter before the court is Plaintiff's Motion for Default Judgment. This matter is being resolved by the default of Defendant, Barnes Banking Company.

Having considered the documents filed with the court, the evidence and the arguments, and not being fully informed,

The Court Finds:

1. That the Plaintiff, AI – Logan Propco, LLC is a Utah limited liability company.
2. That the Defendant Barnes Banking Company is an expired Utah business corporation.
3. That Plaintiff is the record owner of the Property of this action.
4. That the Defendant, Barnes Banking Company maintains a Trust Deed encumbering the Property.
5. That venue properly lies in this Court pursuant to U.C.A § 78B-3-301 because this action seeks for a determination in the right or interest in real property located in Cache County, Utah.
6. That the property at issue in this action is a certain parcel of commercial property located at: 169 East Center Street, Logan, Utah 84321

and more particularly described on the records of the Cache County Recorder as:

Parcel 1:

Beginning at a point 78.5 feet East and 200 feet North of the Southwest corner of Lot 1, Block 16, Plat "A", Logan city Survey; and running thence North 42.5 feet; thence West 5.5 feet; thence North 119 feet; thence East to the West bank of the Logan Canal; thence Southerly along said bank 162.5 feet, more or less; thence West to the point of beginning.

Parcel 1A:

Together with a right of way affecting the East 16.5 feet of the following property:

Beginning at a point 78.5 feet East of the Southwest corner of Lot 1, Block 16, Plat "A", Logan City Survey; and running thence North 200 feet; thence East to the West bank of the Logan Canal; thence Southerly along said bank to the place 75.75 feet to the place of beginning.

Parcel 1B:

Together with the beneficial interest created in that certain Reciprocal Parking Agreement recorded February 02, 2007, as Entry No. 936159, in Book 1447, at Page 15, of Official Records.

Parcel 2:

Commencing at a point 14 feet East of the Southwest corner of Lot 1, Block 16, Plat "A", Logan City Survey; and running thence North 14 rods 11-1/2 feet; thence East 64-1/2 feet; thence Southerly in a straight line 14 rods 11-1/2 feet, more or less, to a point on the South line of said Lot 1, 64-1/2 feet East of the place of beginning; thence West 64-1/2 feet to the place of beginning.

Subject to a right of way for private driveway over a strip 8 feet wide off the East side of the above described land.

Parcel 2A:

Together with the beneficial interest created in that certain Reciprocal Parking Agreement recorded February 02, 2007, as Entry No. 936159, in Book 1447, at Page 15, of Official Records.

Parcel 3:

Beginning at the Southwest corner of Lot 7, Block 16, Plat "A", Logan City Survey; and running thence North 53 feet; thence East 26 feet; thence North 2 feet; thence East 48.25 feet; thence South 55 feet; thence West 1.25 feet; thence South 53 feet; thence West 74 feet; thence North 53 feet to beginning.

Also:

Beginning 42.75 feet South of the Northeast corner of Lot 3 of said block; and running thence West 71.5 feet; thence South 1 rod; thence West 77 feet; thence South 1 rod; thence East 93.5 feet; thence North 15 feet; thence East 55 feet; thence North to beginning.

Also:

Beginning 13.5 rods North of the Southwest corner of Lot 1 of said Block 16; and

running thence North 21.25 feet to a point 53 feet South of the Northwest corner of Lot 8; thence East 14 feet; thence South 21.25 feet; thence West 14 feet to beginning.

Also:

Beginning in the East line of 100 East Street 3 rods North of the Southwest corner of Lot 3 of said block; and running thence East 148.5 feet; thence North 40.7 feet; thence South 46 deg. 12' West 29.5 feet; thence West 124.3 feet to a point North 16.5 feet of beginning; thence South 16.5 feet to beginning.

Also:

Beginning at the Northeast corner of Lot 3 of said block; and running thence South 42.75 feet; thence West 71.5 feet; thence South 16.5 feet; thence West 77 feet; thence North 57.75 feet; thence East 9 rods along the North line of lot to beginning.

Parcel 3A:

Together with the beneficial interest created in that certain Reciprocal Parking Agreement recorded February 02, 2007, as Entry No. 936159, in Book 1447, at Page 15, of Official Records.

Parcel 4:

Beginning at a point 78.5 feet East of the Southwest corner of Lot 1, Block 16, Plat "A", Logan City Survey; and running thence North 200 feet; thence East to the West bank of the Logan Canal; thence southerly along said bank to a place 75.75 feet East of beginning; thence West 75.75 feet to the point of beginning.

Subject to a right of way over the East 16.5 feet.

Parcel 4A:

Together with the beneficial interest created in that certain Reciprocal Parking Agreement recorded February 02, 2007, as Entry No. 936159, in Book 1447, at Page 15, of Official Records.

Tax ID No.: 06-067-0034, 004, 0012, 0003, 0005, 0013, 0037

(Hereinafter referred to as the "Property")

7. That Richard C. Bennion ("Bennion"), the Plaintiff's predecessor in interest, pledged the Property as security for a loan under a Loan Agreement with dated

June 28, 2005 (“Loan Agreement”) and associated Deed of Trust recorded with the Cache County Recorder on September 14, 2005, Book 1372, Page 991, Entry Number 899748 (“Trust Deed”).

8. That Defendant’s claims are based on the terms of the Loan Agreement and the Trust Deed to secure the Property as collateral under the Loan Agreement.
9. Plaintiff assumed the Loan Agreement, under an agreement with Bennion as part of Bennion’s contribution of assets and liabilities for equity in Plaintiff in October of 2006 and took title to the Property in fee simple conveyed through Quit Claim Deed recorded with Cache County Recorder on January 12, 2007, Book 1444, Page 258, Entry Number 934750, through Quit Claim Deed recorded with Cache County Recorder on January 29, 2007, Book 1446, Page 111, Entry Number 935729, and through Special Warranty Deed recorded with Cache County Recorder on September 25, 2012, Book 1732, Page 1150, Entry Number 1072297. Plaintiff, is now, and as mentioned in this Complaint, owner of and in the possession of all the Property.
10. That due to financial inabilities, after December 22, 2008, Plaintiff stopped making payments required under the terms of the Loan Agreement and went into default under the Loan Agreement.
11. Defendant notified Plaintiff of its default under the Loan Agreement and filed with the Cache County Recorder a Notice of Default on June 10, 2009, Book

1577, Page 603, Entry Number 999829 (“Notice of Default”).

12. That from the time Defendant filed the Notice of Default, Defendant has made no additional attempt to collect from Plaintiff, nor was any foreclosure action commenced relating to the Property.
13. That Defendant went insolvent and was closed by the Utah Department of Financial Institutions and the Federal Deposit Insurance Corporation (“FDIC”) was named Receiver for Defendant on January 15, 2010.
14. That neither Defendant, the FDIC, nor any assignee of the Loan Agreement have made any attempt to collect the from the Plaintiff.
15. That the Statute of Limitation set forth in U.C.A. §78B-2-309 grants Defendant a period of six years to bring an action to collect from a debtor, from the later of the day on which a) the debt arose; b) the debtor makes a written acknowledgment of the debt or a promise to pay the debt; or c) the debtor or a third party makes a payment on the debt.
16. That Plaintiff or Bennion, have not made any written acknowledgment of the debt or a promise to pay the debt since the time the Loan Agreement was entered into.
17. Neither Plaintiff, Bennion, nor any third party have made any payment on the debt in excess of 11 years and 2 months.
18. That because the Statute of Limitation has expired to collect this debt, Defendant should be enjoined from asserting any adverse claim to Plaintiff’s

ownership to or quiet enjoyment of the Property.

The Court concludes:

1. That Plaintiff is the owner of the Property and entitled to possession.
2. That the Defendant has no estate, right, title, or interest whatsoever in or to the Property or any part thereof.
3. That any debt accruing or interest thereon owed by Plaintiff pursuant to the Loan Agreement be declared null and void.

The Court orders:

1. The Trust Deed as reconveyed to Plaintiff to release the Property of any encumbrance in favor of the Defendant.
2. That Defendant is permanently enjoined and restrained from asserting any estate, right, title or interest whatsoever, in or to the Property or any part thereof, adverse to Plaintiff.

The official signature of this document appears at the top of the first page.