

SEP 29 2008

FILED

STATE OF NORTH CAROLINA

COUNTY OF FRANKLIN

THOMAS HARRIS and SARAH HARRIS

Plaintiffs,

v.

DENNIS CARTER, WANDA E. CARTER, JOHN M. CARTER, GEORGE G. WHITAKER, trustee Defendants.

2008 SEP 29 A 11:11
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CVS 488

BY _____ *df* *Jmt 001*

ORDER AND JUDGMENT



Doc ID: 001218760003 Type: CRP
Recorded: 11/06/2008 at 09:25:00 AM
Fee Amt: Page 1 of 3
EDGECOMBEE COUNTY, NORTH CAROLINA
ROBIN W CARPENTER REGISTER OF DEEDS

BK 1526 PG 938-940

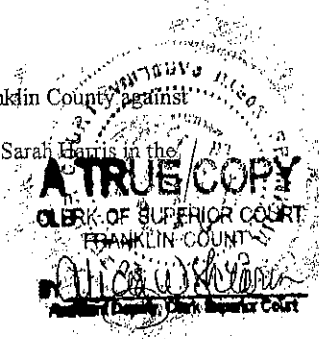
VA

THIS CAUSE was heard on Plaintiffs' Motion for Default Judgment against Defendants Dennis Carter, Wanda Carter, John M. Carter and George G. Whitaker (the "Defendants"). The Court read the pleadings and affidavits and considered the arguments of counsel. It appears to the Court that personal service was had on Defendants; that the Court has jurisdiction over the subject matter of the action; that Defendants are not infants, incompetent persons, or otherwise under disability; the Defendants have failed to plead or appear in the time allowed by law; that default was entered by the Clerk against Defendant Dennis Carter on July 1, 2008, against Defendant Wanda Carter on July 9, 2008, against Defendant John Carter on July 9, 2008, and against Defendant George on August 18, 2008.

THIS COURT FINDS AND CONCLUDES THAT:

1. On April 9, 2007, Hon. Carl R. Fox entered judgment in Franklin County against Dennis and Wanda Carter (the "Carters") in favor of Plaintiffs Thomas and Sarah Harris in the

TR11683249v1



principal amount of \$165,000 plus interest and attorneys' fees (the "Judgment"). The Judgment resolved the Harris' case against the Carters filed in Franklin County Superior Court, case number 07-cvs-69.

2. The Carters are the owners of property in Edgecombe County (the "Property"), the legal description of which is:

616 US Hwy. 301 (formerly Rt. 1, Box 135A), Whitakers, Edgecombe County, North Carolina, and being that lot located in Number Six Township, Edgecombe County, North Carolina, containing five acres and being located on the east side of U.S. Highway 301, and being shown on a plat of record in Cabinet 6, Slide 267, incorporated herein. This plat is recorded in the Edgecombe County Registry.

3. On or about October 8, 2007, approximately a month after the date the Carters claim they first became aware of the Harris' Judgment, the Carters executed a Deed of Trust as grantors that named Defendant John M. Carter as beneficiary and Defendant George G. Whitaker as trustee recorded in the Edgecombe County Register at book 1502, page 174 (the "Deed of Trust").

4. The Deed of Trust recites that the Carters are indebted to John Carter in the principal amount of \$170,000.

5. Before the Carters executed the Deed of Trust, a fire destroyed the home located on the Property, further reducing the value of the Property.

6. At the time the Carters executed the Deed of Trust, there was no available equity in the Property.

7. The Carters did not receive a reasonably equivalent value from John Carter.

8. The Carters were insolvent at the time they executed the Deed of Trust.

9. As a relative of Dennis Carter, John Carter was an "insider" as that term is defined in N.C. Gen. Stat. § 39-23.1, and John Carter had reasonable cause to believe that the Carters were insolvent at the time of the transaction.

10. Before the Carters executed the Deed of Trust, the Plaintiffs had obtained a Judgment against them in the principal amount of \$165,000.

11. The Carters' execution of the Deed of Trust was a fraudulent transaction, entered into with the intent to defraud the Harrises, judgment creditors of the Carters.

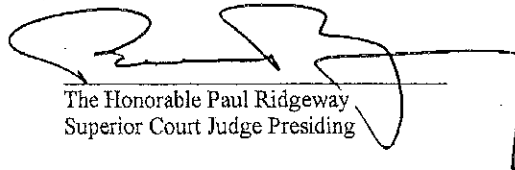
12. Therefore, it is appropriate for this Court to set aside the Deed of Trust and to order the Register of Deeds of Edgecombe County to cancel the Deed of Trust.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, THAT this Court enters Default Judgment against Defendants Dennis Carter, Wanda Carter, John M. Carter and George G. Whitaker.

IT IS FURTHER ORDERED THAT:

1. The Deed of Trust recorded in the Edgecombe County Register at book 1502, page 174, is void and invalid; and
2. The Register of Deeds of Edgecombe County shall cancel the Deed of Trust recorded in the Edgecombe County Register at book 1502, page 174.

This 23rd day of September 2008.



The Honorable Paul Ridgeway
Superior Court Judge Presiding

(3) 18th - M-Moore & Van Allen
P O Box 13706
Research Triangle Park, NC
27709

TRJ11683249v1