

IN THE CHANCERY COURT OF COUNTY, MISSISSIPPI

, PLAINTIFF(S)

VS.

NO.

DEFENDANT(S)

JUDGMENT VACATING PLAT IN PART, REMOVING PROTECTIVE COVENANTS IN PART. AND GRANTING OTHER RELIEF

THIS CAUSE came on to be heard on the day of , on the complaint of the plaintiffs, and , to vacate a plat in part, to terminate protective covenants in part, and for other relief. The Court, having reviewed the pleadings received and considered documentary and at the trial of this cause, finds the following, to wit:

1. The plaintiffs, and , brought pursuant to Miss. Code Ann. Section 19-27-31 to vacate a certain part of the plat of . The plaintiffs also sought to terminate protective covenants and other relief.

2. Defendants in this action are the City of , Mississippi, County, Mississippi, persons who owned lots in as of the date of the filing of the Complaint, and all other persons who may be adversely affected by this action. Plaintiff obtained personal service on the defendants and further caused to be published according to law in a summons that clearly set forth the objects and purposes of the Complaint.

3. The Court has jurisdiction over the parties and the subject matter.

4. is a duly mapped and platted subdivision recorded in Plat Book at Page in the Chancery Clerk's office of County, Mississippi. The plat of was filed and recorded with the Chancery Clerk of County, Mississippi, on . A certified copy of the plat of was admitted into evidence at trial as Trial Exhibit .

5. The plaintiffs' seek to vacate that part of the plat of that is described on the Certificate of Survey attached to this Judgment as Exhibit " ". The real property described on Exhibit " " hereto shall be hereinafter referred to as the "affected part" of . The real property described on Exhibit " " hereto is the same real property identified on and admitted into evidence as Trial Exhibit .

6. The affected part of , which is described on Exhibit " " hereto, consists of lots of , all as identified on the recorded plat of Trial Exhibit)

7. is the Special Projects Administrator for the City of , Mississippi. 's duties include the acquisition of rights of way for streets in , Mississippi.

8. and are depicted as public streets on the plat of . (Trial Exhibit , testimony of). and have never been developed, nor have they ever been utilized as public streets. These streets have continuously been vacant undeveloped property since the plat of was filed and recorded on , . (Testimony of)

9. The City of , Mississippi, has no plans to develop or , nor does the City, after consultation with legal counsel, have the authority to itself develop the streets for public use. (Testimony of)

10. The plat of was approved or otherwise accepted by the Board of Supervisors of County, Mississippi, as was not incorporated as a municipality until . (Trial Exhibit and testimony of)

11. At the time the plat of was filed and recorded, the streets depicted therein were dedicated to County, Mississippi, by way of common law dedication. (Trial Exhibit and testimony of)

12. Upon its incorporation as a municipality in , the City of , Mississippi, succeeded to the rights of County, Mississippi, with respect to and . testified that he/she is not aware of any records or other information indicating that and were statutorily dedicated to the City of , Mississippi. No evidence was presented to the Court that and were ever statutorily dedicated to the City of , Mississippi

13. The City of , Mississippi, acquired its rights to by way of common law dedication, and not by statutory dedication. (Trial Exhibits and and testimony of and)

14. The actual development of and for their use as public streets has become impossible of execution. The City of , Mississippi, neither has the intention nor authority to develop and likewise, , the owner of all lots adjacent to and , does not intend to develop the streets. (Testimony of)

15. The non-development and non-use of and as public streets has been complete and continuous for a period exceeding years. At no time since its incorporation as a municipality in , has the City of , Mississippi, attempted to exercise any dominion control over and . (Testimony of and)

16. and have been abandoned by the City of , Mississippi.

17. testified that he/she is the fee owner of the property within the affected part to , as that property is depicted on Exhibit . This is one and the same property as that described on Exhibit " " hereto, and consists of lots of .

18. by virtue of being the owner of the property adjacent to and , should become the fee owner of the property depicted as and on the plat of .

19. testified that he/she does not intend to develop the affected part of , and that he/she has a contract to sell his/her property to for development. (Testimony of)

20. is not aware of any objections to the relief sought in the Complaint from the mayor, Board of Aldermen, or citizens of , Mississippi. (Testimony of).

21. is the owner of , one of the plaintiffs herein. testified that he/she has been a homebuilder and residential developer since . In that time, has built over has also developed and , both of which are subdivisions in the City of , Mississippi. (Testimony of).

22. desires to develop a subdivision to be known as adjacent to . further desires to incorporate the affected part of into its subdivision. The preliminary plat of has been approved by the City of , Mississippi, which plat was admitted into evidence at trial as Trial Exhibit . (Testimony of).

23. The protective covenants of were recorded in the land records of the Chancery Clerk of County, Mississippi, on , . A certified copy of the protective covenants was admitted into evidence as Exhibit .

24. The protective covenants state that any dwelling built in the subdivision shall not have less than square feet and shall not cost less than \$.

25. The protective covenants do not contain sufficient square footage or land use restrictions to protect property values in or in . Because of the inadequate restrictions contained in the protective covenants, it is not economically feasible to develop the affected part of . (Testimony of)

26. The inclusion of the affected part of into the proposed subdivision will enhance the property values in . It will further enhance the safety of the residents of , insofar as the development will add an additional ingress and egress route for . (Testimony of).

27. has met with the Board of Directors of the Homeowners Association, the membership of the Homeowners Association, and with most of the property owners in . None of these entities or persons have stated or otherwise indicated any opposition to either the development or the relief sought in the Complaint. (Testimony of).

28. The protective covenants should be terminated as to the affected part of .

29. The of , Mississippi, , and the City of , Mississippi, have each filed an answer. None of these entities have objected to the relief sought in the Complaint. None of the other defendants in this action have filed an answer, nor did any defendant other than the City of , Mississippi, appear at the trial of this cause

IT IS, THEREFORE, ORDERED AND ADJUDGED that the plat of _____ is hereby vacated as to that part of _____ described in Exhibit " _____ " hereto, which consists of lots of _____, and that said part of _____ is hereby vacated and removed from the plat of _____.

IT IS FURTHER ORDERED AND ADJUDGED that the Protective Covenants of _____ are hereby terminated as to that part of _____ described in Exhibit " _____ " hereto, which consists of lots _____ of _____.

IT IS FURTHER ORDERED AND ADJUDGED that the property identified as streets in that part of the plat of _____ described in Exhibit " _____ " hereto (_____) are hereby decreed to be abandoned streets.

IT IS FURTHER ORDERED AND ADJUDGED that the real property decreed to be abandoned streets (_____) by this Judgment is hereby decreed to be the real property in fee of the abutting land owner, _____.

IT IS FURTHER ORDERED AND ADJUDGED that pursuant to Miss. Code Ann. § 19-27-31, this Judgment shall be recorded as a deed, and a memorandum of the vacation of that part of _____ described in Exhibit " _____ " hereto, which consists of lots _____ of _____, shall be noted on the record of the plat of _____ by the Chancery Clerk of _____ County, Mississippi.

IT IS FURTHER ORDERED AND ADJUDGED that a memorandum of the termination of the Protective Covenants as to that part of _____ described in Exhibit " _____ " hereto, which consists of lots _____ of _____, shall be noted on the Protective Covenants of _____ by the Chancery Clerk of _____ County, Mississippi.

SO ORDERED AND ADJUDGED, this the _____ day of _____, _____.

CHANCELLOR