

STATE OF MAINE
SAGADAHOC, ss.

BUSINESS AND CONSUMER DOCKET
Location: West Bath
Docket No. BCD-WB-RE-08-34

RAISIN MEMORIAL TRUST,)
)
Plaintiff,)
)
vs.)
)
SHARON RYAN CASEY)
)
Defendant.)
)
)
)

**POST-JUDGMENT ORDER
PURSUANT TO ME. R. CIV. P. 70**

On June 22, 2010, the Court entered an Order on Plaintiff's Amended Motion to Enforce Settlement and Entry of Final Judgment ("Final Judgment"). No appeal was taken from the Final Judgment. A motion by Defendant under Rule 60(b) to set aside the Final Judgment, after notice and hearing, was denied by the Court on August 19, 2010 for the reasons stated by the Court upon the record and in accordance with the Court's August 26, 2010 Order Post-Judgment Order Pursuant to Me. R. Civ. P. 70 ("First Post-Judgment Order").

Under the terms of the Final Judgment, Defendant was ordered to complete the settlement entered into following a Judicial Settlement Conference and the placement of the settlement terms on the record of this Court. Specifically, Defendant was ordered to execute and deliver (1) the written Settlement Agreement, (2) the Quit-Claim Deed in lieu of foreclosure and Real Estate Transfer Tax Declaration of real property in Bar Harbor, Maine situated at 182 Otter Cliff Road, and (3) two mortgage deeds for two certain parcels of land in Blue Hill, Maine ("Blue Hill Properties").

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Business and Consumer Docket

In July 2010, Plaintiff filed its first Notification of Defendant's Noncompliance with the June 22, 2010 Order on Plaintiff's Amended Motion to Enforce Settlement Agreement and Entry of Final Judgment ("First Notification"). At the time that Plaintiff filed the First Notification, Defendant was not the record owner of the Blue Hill Properties, having transferred those properties to her daughter, Winter Casey, in December 2009.

On August 10, 2010, Winter Casey re-conveyed the Blue Hill Properties to Defendant.

On August 26, 2010, the Court, *inter alia*, granted Plaintiff the Rule 70 relief requested in the First Notification with respect to the execution of the Settlement Agreement and the transfer of ownership of certain "premises at 182 Otter Cliff Road, Bar Harbor, Maine." *See* Post-Judgment Order Pursuant to Me. R. Civ. P. 70, p. 2 ("Rule 70 Order"). The relief granted in the Court's Rule 70 Order did not, however, include the execution and delivery of the two mortgage deeds for the Blue Hill Properties because, at the time of the filing of the First Notification, Defendant was no longer the owner of that real estate, having conveyed it to her daughter months before.

On November 4, 2010, Plaintiff filed a second Post-Judgment Notice of Defendant's Non-Compliance with the June 22, 2010 Order on Plaintiff's Amended Motion to Enforce Settlement and Entry of Final Judgment ("Second Notification"), seeking further relief under Rule 70 so that Plaintiff could execute and record appropriate mortgages against the Blue Hill Properties in order to secure its monetary judgment against Defendant, all as contemplated and required under the Settlement Agreement and the Final Judgment.

On November 24, 2010, the Court issued a Notice of Hearing and Opportunity to be Heard Pursuant to M.R. Civ. P. 70 and the Court's June 22, 2010 Order on Plaintiff's Amended Motion to Enforce Settlement ("Notice of Hearing"), which indicated its intent to exercise its

authority pursuant to Maine Rule of Civil Procedure 70 and its Final Judgment: (1) to direct that the two mortgage deeds for the Blue Hill Properties identified in the Final Judgment be executed and delivered to Plaintiff by some other person appointed by the Court, with such execution and delivery having the same effect as if done by Defendant; and (2) consider whether Defendant should be adjudged in contempt, or whether sanctions should be imposed against Defendant pursuant to Me. R. Civ. P. 70 and the Court's Final Judgment. The Notice of Hearing also gave the parties until December 10, 2010 to make written submissions and an opportunity to be heard on this matter at a hearing held on December 15, 2010.

As set forth more fully on the record on December 15, 2010, the Court finds that due and appropriate service of the Second Notification and the Notice of Hearing was properly effectuated upon Defendant. Defendant, however, did not file a written submission in response to the Court's Notice of Hearing or the Second Notification, and she did not attend the hearing on December 15, 2010.

After considering Plaintiff's submission and argument at a hearing held before the Court on December 15, 2010, the Court finds that Defendant has failed to comply with the Final Judgment, and that the Court provided appropriate notice and an opportunity to be heard to Defendant as to why the Court pursuant to Rule 70 of the Maine Rules of Civil Procedure should not direct that the mortgage deeds for the Blue Hill Properties be executed and delivered to Plaintiff by some other person appointed by the Court, with such execution and delivery having the same effect as if done by Defendant, and, pursuant to Rule 70, the Court hereby Orders as follows:

The Court appoints and directs Cynthia Paine, administrative assistant to Plaintiff's attorney, to execute the two mortgages deeds for the Blue Hill Properties, and that such mortgage deeds be delivered to Plaintiff for recording in the Hancock County Registry of Deeds. The execution by Cynthia Paine will have the like and legal effect as if signed by Defendant, Sharon Casey.

The Clerk is directed to incorporate this Order by reference in the docket pursuant to M.R.

Civ. P. 70(a).

Dated: _____

12/17/10



Thomas E. Humphrey
Chief Justice, Superior Court