

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

IN RE:

STEPHEN STANSELL,

Debtor

Case No. 92-22784-WHB
Chapter 11

STEPHEN STANSELL,

Plaintiff,

Vs.

Adversary No. 95-0176

COLONIAL HILLS BAPTIST CHURCH,

Defendant.

ORDER ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

As provided in the Memorandum Opinion of this same date, which opinion is incorporated in this order by reference, this Court will grant partial summary judgment to the plaintiff finding that the Option Contract between these parties concerning the purchase of the property located at 5199 Highway 51 South, Southaven, Mississippi, was exercised by a letter dated July 25, 1994, and that the defendant's attorney had authority to exercise the said option on behalf of the defendant. The Court will withhold entering a separate judgment on this partial summary judgment until all remaining issues have been resolved finally by settlement or trial.

The Court further finds that there is a genuine issue of material fact in dispute concerning the defendant's assertions that the plaintiff lacked good title to the subject property; therefore, the Court will not grant complete summary judgment to the plaintiff until all issues related to the title to the property have been litigated or settled.

IT IS THEREFORE ORDERED that partial summary judgment is granted to the plaintiff finding that the Option Contract was exercised by the July 25, 1994, letter from the defendant's attorney and that the said attorney had the authority to so exercise the option.

IT IS FURTHER ORDERED that summary judgment will not be granted to the plaintiff on the issue concerning the defendant's defense to breach of the Option Contract related to the allegations of lack of good title.

IT IS FURTHER ORDERED that at the trial on the title issues the further issue of the plaintiff's entitlement to attorney's fees as compensatory damages, and the amount thereof, shall be determined.

IT IS FURTHER ORDERED that a final pre-trial conference will be conducted on the 16th day of October, 1995, at 200 Jefferson Avenue, Courtroom 680, Memphis, Tennessee at 9:30 a.m. at which time counsel for the parties shall appear and be prepared to discuss with the Court the issues remaining for trial. At that time, the Court will determine any further discovery schedule and will establish a trial date.

SO ORDERED this 19th day of September, 1995.

WILLIAM HOUSTON BROWN
UNITED STATES BANKRUPTCY JUDGE

cc:

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