

Adams County Legal Journal

Vol. 65

May 19, 2023

No. 3

Good Hope Ventures NO, L.P.

v.

S&T Bank

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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MORTGAGE FORECLOSURE

COURT OF COMMON PLEAS
ADAMS COUNTY, PA
CIVIL ACTION - LAW
No. 2023-SU-0120

MORTGAGE FORECLOSURE

US Bank Trust National Association, Not In Its Individual Capacity But Solely as Owner Trustee for VRMTG Asset Trust,
Plaintiff
vs.

Christopher A. Kissell, Defendant
To: Christopher A. Kissell, Defendant - You are hereby notified that on 2/6/23, Plaintiff filed a Mortgage Foreclosure Complaint together with a Notice to Defend, against you in the Court of Common Pleas of Adams County, PA, docketed as No. 2023-SU-0120. Plaintiff seeks to foreclose on the mortgage secured on your property located at 2168 Carlisle Pike, Hanover, PA 17331, whereupon your property would be sold by the Sheriff of Adams County. You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Adams Co. Bar Assn.
Court Administrator

Adams County Courthouse

117 Baltimore St., Gettysburg, PA 17325
717-337-9846

05/19

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on March 3, 2023, Nicole M. Sipe filed a petition for name change in the Court of Common Pleas of Adams County, Pennsylvania requesting a decree to change the name of the minor Abigail Eleanor Reiprich to Abigail Eleanor McClain.

The court has affixed June 23, 2023 at 10:30 a.m. in Courtroom #4, Third Floor of the Adams County Courthouse as the time and place for the hearing of said petition, when and where all persons interested may appear and show cause, if any they have, why the Petition should not be granted.

Nicole M. Sipe, Esq.
123 Baltimore Street
Gettysburg, PA 17325
717-334-7623

05/19

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on April 12, 2023, Sylena Marie Kendall filed a petition for name change in the Court of Common Pleas of Adams County, Pennsylvania requesting a decree to change the name of the minor Harper Leigh Stiles to Harper Leigh Kendall.

The court has affixed June 23, 2023 at 1:45 pm in courtroom #4, third floor of the Adams County Courthouse as the time and place for the hearing of said petition, when and where all persons interested may appear and show cause, if any they have, why the Petition should not be granted.

5/19

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following account with statements of proposed distribution filed therewith have been filed in the Office of Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County-Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on 06/23/2023, 08:30am.

DIXON—Orphan's Court Action Number – OC-69-2021. Petition for Adjudication/Statement of Proposed Distribution. Estate of BEVERLY PATRICIA DIXON, late of Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

5/19 & 5/26

GOOD HOPE VENTURES NO, L.P. v. S&T BANK

1. The litigation originates with a number of agreements entered between Bank and non-party, New Oxford Municipal Authority ("NOMA"). Essentially, they provided for the donation of land from the Bank to NOMA as part of the subdivision. They further provided, inter alia, for the Bank, as developer, to assume the costs of installing a future proposed water line identified on the subdivision plans as well as an upgrade to water lines operated by NOMA but external to the boundaries of the subdivided property.
2. Although the subdivision plan was recorded at the Adams County Records of Deeds Office, the Agreements were not. The property was subsequently sold by Bank to Good Hope. During the course of the transaction, Bank representatives provided Good Hope with an owner's affidavit which denied the existence of any unrecorded agreements affecting the property.
3. Bank reasons that since Good Hope claimed to be a bona fide purchaser of the property, the Agreements at issue are unenforceable as void and therefore could not possibly negatively impact subsequent sales of the property. This ingenious argument is meritless.
4. Under these circumstances, it was the disclosure of the Agreements rather than the actual legal enforceability of the Agreements which is at issue.
5. Instantly, Good Hope has alleged Bank intentionally made a representation material to the transaction that was false. Good Hope further claims the misrepresentation was made with the intent to mislead them and they justifiably relied upon the misrepresentation thereby resulting in financial harm to them. At this stage of the litigation, these allegations are sufficient to survive a demurrer.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA, 2020-SU-424, GOOD HOPE VENTURES NO, L.P. v. S&T BANK

Scott T. Wyland, Esquire, and Elizabeth L. Kramer, Esquire, Attorneys for Plaintiff
John B. Joyce, Esquire, and Jeremy J. Kobeski, Esquire, Attorneys for Defendant

George, P. J., April 18, 2023

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CIVIL

**GOOD HOPE VENTURES NO, L.P.,
2020-SU-424**

Plaintiff

v.

S&T BANK,

Defendant

OPINION

Before the Court are the Defendant's, S&T Bank ("Bank")¹, Preliminary Objections to the Amended Complaint filed by Good Hope Ventures NO, L.P. ("Good Hope").

¹ The Complaint alleges that S&T Bank is a successor in title to Integrity Bancshares, Inc. At this stage of the proceedings, it is not necessary to examine the extent of S&T Bank's assumption of Integrity's legal exposure as that issue is not before the Court. Rather, the Court must accept all allegations in the Complaint as true. *Weiley v. Albert Einstein Medical Center*, 51 A.3d 202 (Pa. Super. 2012), on remand to 014 W.L. 11210514 (in considering preliminary objections in the nature of a demurrer, all material facts set forth in the pleadings must be admitted as true). Accordingly, for purposes of this Opinion, references to "Bank" will include allegations in the Complaint which allege conduct on the part of either Integrity or S&T Bank.

For the reasons set forth hereinbelow, the Preliminary Objections are sustained in part and overruled in part.

This litigation originates with a number of agreements entered between Bank and non-party, New Oxford Municipal Authority ("NOMA"). The agreements were entered in furtherance of a subdivision plan known as Oxen Country Meadows located in New Oxford Borough, Adams County, Pennsylvania. Two agreements at issue are identified as a water system agreement and a water line replacement agreement (collectively "Agreements"). Essentially, they provided for the donation of land from the Bank to NOMA as part of the subdivision. They further provided, inter alia, for the Bank, as developer, to assume the costs of installing a future proposed water line identified on the subdivision plans as well as an upgrade to water lines operated by NOMA but external to the boundaries of the subdivided property. Although the subdivision plan was recorded at the Adams County Recorder of Deeds Office, the Agreements were not. The property was subsequently sold by Bank to Good Hope. During the course of the transaction, Bank representatives provided Good Hope with an owner's affidavit which denied the existence of any unrecorded agreements affecting the property. Although the Complaint is silent as to when Good Hope discovered the existence of the Agreements, Good Hope alleges efforts to subsequently sell the property resulted in a sale at less than market value. Good Hope claims the decrease in price was due to their required disclosure of the Agreements to subsequent prospective purchasers. Good Hope instituted this litigation alleging numerous counts of fraud in an effort to recoup damages related to their subsequent sale of the property at less than market value.

Bank's initial preliminary objection is in the nature of a demurrer claiming that the Agreements could not legally impact the value of the property as they are unenforceable pursuant to 21 P.S. §§ 351-358. These sections generally provide that a deed, conveyance, or contract affecting the grant, bargain, sell, and conveyance of land shall be filed in the Office of the Recorder of Deeds or is otherwise void as to any subsequent bona fide purchasers. 21 P.S. § 351. Bank reasons that since Good Hope claimed to be a bona fide purchaser of the property, the Agreements at issue are unenforceable as void and therefore could not possibly negatively impact subsequent sales of the property. This ingenious argument is meritless.

Good Hope's Complaint alleges that disclosure of the written Agreements to a subsequent purchaser harmed their bargaining status and ultimately resulted in a discounted sale. Under these circumstances, it was the disclosure of the Agreements rather than the actual legal enforceability of the Agreements which is at issue. Whether the subsequent

bona fide purchaser has a defense to the enforceability of the Agreements should NOMA seek to enforce them is immaterial. Good Hope's obligation in the subsequent transaction was to disclose the existence of the Agreements for the purpose of giving the subsequent purchaser notice of the same. The extent to which Good Hope could have negotiated a higher sale price by arguing the applicability of the statutory sections at issue, and the impact they may have had on obtaining a higher sales price, are factual issues for a jury, not proper in the consideration of the propriety of a demurrer.² ***Bilt-Rite Contractors, Inc. v. The Architectural Studio***, 866 A.2d 270, 274 (Pa. 2005) (any doubt concerning whether a demurrer should be sustained should be resolved in favor of overruling the demurrer).

Instantly, Good Hope has alleged Bank intentionally made a representation material to the transaction which was false. Good Hope further claims the misrepresentation was made with the intent to mislead them and they justifiably relied upon the misrepresentation thereby resulting in financial harm to them. At this stage of the litigation, these allegations are sufficient to survive a demurrer.

Bank demurs to Good Hope's fraud based claims alleging that the subdivision plan filed of record contained sufficient information to place Good Hope on notice of the existence of the obligations contained in the several Agreements. Once again, this claim is unpersuasive.

Good Hope's Complaint alleges the terms of the two Agreements will result in significant expense to the property owner of the subdivision for offsite improvements to the NOMA water delivery system. Good Hope further alleges that any owner of the subdivision will also incur expenses through the installation of a future proposed water line contained within the subdivision boundary but which appears to service a NOMA well. In making these claims, Good Hope alleges not only did they lack knowledge of the same and were unable to obtain the same through reasonable diligence, but also the existence of the document outlining the terms of this financial obligation was intentionally hidden from them. A review of the subdivision plan as attached to Bank's Preliminary Objections fails to reveal any reference to the offsite improvements. The subdivision plans are also silent as to Bank's obligation, as binding on subsequent purchasers, to install proposed future water lines.³ Once again, for this reason and at this stage of litigation, the demurrer will be denied.

² It is not unreasonable to conclude that the threat of litigation, in addition to the likelihood of success of the litigation, are proper considerations weighing on the purchaser of real property.

³ Although Bank has attached a copy of the subdivision plan to their Preliminary Objections, the copy is largely unreadable. In neither their Preliminary Objections nor their supporting Brief does Bank cite any specific language in the subdivision plans which permit this Court, as a matter of law, to refute the claims in Good Hope's Amended Complaint.

Bank next objects alleging that the Amended Complaint fails to conform to law by inadequately containing necessary written Agreements as required by Pennsylvania Rule of Civil Procedure 1019. Unquestionably, Rule 1019 requires a pleader to attach a copy of any writing upon which a claim is based. Instantly, Good Hope has attached to the Complaint both Agreements as well as the owner's affidavit from Bank denying existence of the Agreements. It is primarily these documents upon which the claims of fraud rely. In pleading a case, a complaint need not cite evidence but only those facts necessary for the defendant to prepare a defense. *Unified Sportsmen of Pa. v. Pa. Game Com'n.*, 950 A.2d 1120 (Pa. Cmwlth. 2008). The documents attached to the Complaint are more than sufficient to apprise Bank of the claim against them. Peripheral documents are readily obtainable through discovery. Accordingly, this preliminary objection will be overruled.

Bank's final preliminary objection challenges the sufficiency of the allegations in the Complaint alleging they lack the definitiveness to properly allow an informed answer to the allegations against them. While the various claims incorporated in this preliminary objection are facially meritless and deserve no further discussion, Bank's claim in regard to the insufficiency of allegations as they relate to the timing of significant events underlying this litigation deserves further merit.

This litigation was initiated by a Praeceptum for Writ of Summons filed on May 22, 2020. Good Hope's subsequent Amended Complaint alleges fraud related to their purchase of property which settled on November 18, 2014. Good Hope's Complaint alleges activity between the date of settlement and the initiation of this litigation consisting of an offer by a prospective purchaser of the property; Good Hope's discovery of the existence of the Agreements; and Good Hope's ultimate sale of the property at a discounted rate caused by Good Hope's obligation to disclose the Agreements to the ultimate purchaser. The Complaint, however, lacks any reference to the times which these significant actions occurred. In order to properly formulate their defense, Bank is entitled to this fundamental information. Accordingly, Bank's preliminary objection will be granted in this limited respect.

For the foregoing reasons, the attached Order is entered.

BY THE COURT:

MICHAEL A. GEORGE
President Judge

Date filed: April 18, 2023

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary of or administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF BARBARA A. BENTZEL, DEC'D**

Late of Mount Joy Township, Adams County, Pennsylvania
 Bryan H. Bentzel, 408 Lexington Way, Littlestown, PA 17340; Julie A. Arentz, 215 Chestnut Hill Road, Hanover, PA 17331
 Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF MICHAEL FREDERICK CASSIDY, a/k/a MICHAEL F. CASSIDY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Executor: Kristen Cassidy, 359 Trailing Putt Way, Las Vegas, NV 89148
 Attorney: Clayton A. Lingg, Esq., Mooney Law, 230 York Street, Hanover, PA 17331

ESTATE OF ANNE LOUISE CHERRY, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Administrator: William M. Cherry, c/o Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 1733
 Attorney: Scott J. Strausbaugh, Esq., Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 1733

ESTATE OF CLARA E. EISENHART a/k/a CLARA ELLEN EISENHART, DEC'D

Late of East Berlin Borough, Adams County, Pennsylvania
 Executor: Sharon K. Krout, c/o PO BOX 606, East Berlin PA 17316
 Attorney: Sharon E. Myers, Esq., CGA Law Firm, PO BOX 606, East Berlin PA 17316

ESTATE OF CHARLOTTE M. GREEN, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Jean C. Byers, 13 Park Street, Mont Alto, PA 17237

ESTATE OF CHARLES WILLIAM NOEL a/k/a C. W. NOEL a/k/a C. WILLIAM NOEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Sandra M. Noel-Angel, c/o Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331
 Attorney: Scott J. Strausbaugh, Esq., Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331

ESTATE OF CAROL LEE NYE, DEC'D

Late of Huntington Township, Adams County, Pennsylvania
 Executrix: Tracy Sweitzer, 51 Idaville-York Springs Road, Gardners, PA 17324
 Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF JOHN ANDREW CLEMENS, DEC'D**

Late of Gettysburg Borough, Adams County, Pennsylvania
 Executor: Barry G. Simon, 171 S. Hay Street, Gettysburg, PA 17325
 Attorney: Puhl & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY A. CORBIN, DEC'D

Late of Carroll Valley Borough, Adams County, Pennsylvania
 Co-Executors: Gregory David Corbin & Ruth Ann Morningstar, c/o Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331
 Attorney: Scott J. Strausbaugh, Esq., Strausbaugh law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331

ESTATE OF MARGARET W. KUGLER a/k/a MARGARET LOUISE KUGLER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
 Executrix: Margaret E. Rhodes, c/o Sharon E. Myers, Esq., CGA Law Firm,

PC, PO Box 606, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, PO Box 606, East Berlin, PA 17316

ESTATE OF LEWIS C. LEINBACH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania 17222
 Administratrix: Robin J. Kimple, 70 Miltonberger Road, Orrtanna, PA 17353
 Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF SUE ANN OSTERMAN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania 17353
 Executor: Richard T. Hartsough, 1028 Hanover Road, York, PA 17408
 Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF DORIS BAUGHER BROUGH, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania
 Executor: Steven A. Brough, 28 Holly Estate Drive, Gardners, PA 17324
 Attorney: Robert E. Campbell, Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM H. BUSHMAN a/k/a WILLIAM HOWARD BUSHMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executors: Jay A. Bushman, 44670 Collingdale Terrace, Ashburn, VA 20147; Joy L. Taylor, 399 Brysonia-Wenkville Road, Biglerville, PA 17307
 Attorney: Puhl & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOYCE Y. DYE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Personal Representative: Lawrence W. Dye, 10510 Woodlawn Blvd., Largo, MD 20774
 Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

Continued on page 9

THIRD PUBLICATION CONTINUED

ESTATE OF ELAINE M. GALUSHA,
DEC'D

Late of the Borough of Arendtsville,
Adams County, Pennsylvania

Co-Executrices: Aimee M.
Stambaugh, 1288 Potato Road,
Aspers, PA 17304; Julianne S.
Thompson, 104 Moul Avenue,
Hanover, PA 17331

Attorney: Adam R. Deluca, Esq.,
Stone LaFaver & Shekletski, P.O.
Box E, New Cumberland, PA 17070

ESTATE OF SHELBY LOU
HAVENSTRITE a/k/a SHELBY L.
HAVENSTRITE, DEC'D

Late of Reading Township, Adams
County, Pennsylvania

Executor: Richard A. Havenstrite, 138
Schofield Drive, East Berlin, PA
17316

Attorney: Adam D. Boyer, Esq., Barley
Snyder, LLP, 123 Baltimore Street,
Suite 101, Gettysburg, PA 17325

ESTATE OF GARY R. LEER, DEC'D

Late of Latimore Township, Adams
County, Pennsylvania

Executrix: Linda L. Leer, 174 Latimore
Creek Road, York Springs, PA
17372

Attorney: Jennifer Denchak Wetzell,
Esquire, Mette, Evans & Woodside,
3401 North Front Street, Harrisburg,
PA 17110-0950; Telephone: (717-
232-5000

ESTATE OF JANET E. STARR, a/k/a
JANET ELWIN STARR, DEC'D

Late of Berwick Township, Adams
County, Pennsylvania

Thomas E. Starr, 1147 Eichelberger
Street, Hanover, PA 17331

Attorney: Ann C. Shultis, Salzmann
Hughes, P.C., 1147 Eichelberger
Street, Suite F, Hanover, PA 17331

ESTATE OF BONNIE L. STICK a/k/a
BONNIE LEE STICK, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Michael Lawrence DeHaven Stick, Jr.,
70 Sydney Court, Hanover, PA
17331

Attorney: Becker Law Group, P.C.,
Arthur J. Becker, Jr., Esquire, 529
Carlisle Street, Hanover, PA 17331