IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

M & T MORTGAGE CORP.,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 08-0238
	:	
STAFFORD TOWNSEND AND BERYL TOWNSEND,	:	
	:	
Defendants	:	

Christopher J. Fox, Esquire — Counsel for Plaintiff
William G. Schwab, Esquire — Counsel for Defendants

MEMORANDUM OPINION

Serfass, J. – December 30, 2011

Plaintiff, M & T Mortgage Corp., has commenced an Action to Quiet Title against Defendants, Stafford Townsend and Beryl Townsend, seeking to record an executed copy of a mortgage against Defendants' real property located at 875 Towamensing Trail, Albrightsville, Pennsylvania. In the alternative, Plaintiff seeks to impose an equitable lien on the aforementioned real property in the amount of the outstanding loan balance. For the reasons that follow, we will grant Plaintiff's request to impose an equitable lien on Defendants' real property.

FACTUAL AND PROCEDURAL BACKGROUND

On January 25, 2008, Plaintiff filed a Complaint to Quiet Title against Defendants. The Complaint avers that Defendants

purchased the real property located at 875 Towamensing Trail, Albrightsville, Pennsylvania (Property) with the proceeds of a loan from Plaintiff, in the amount of one hundred twenty-four thousand, eight hundred dollars ($124,800), which was made on December 9, 2004. This loan was to be evidenced by a note and secured by a mortgage on the Property. Plaintiff avers that it recently discovered that the mortgage was not recorded in Carbon County. Plaintiff alleges that Defendants intended to grant a mortgage to Plaintiff, and validated this intent by initially making monthly installments of principal and interest to Plaintiff. Plaintiff is seeking to record its unsigned copy of the mortgage, and requests that this Court order that an unsigned copy of the mortgage be recorded in the recorder of deeds office, and that Defendants and their heirs and assigns be enjoined from disputing that the mortgage is a valid and enforceable first lien against the Property.

The Complaint also includes a count for Declaratory Judgment, which seeks a judicial determination of the mortgage lien on the Property, in order to protect Plaintiff's interest in the Property. The Complaint further includes a count for the imposition of an equitable lien/constructive trust against Defendants and the Property.

On March 5, 2008, Defendants filed an Answer and New Matter to the Complaint, denying the substance of Plaintiff's

allegations. Defendants assert that they borrowed money from Chase Home Finance, and not Plaintiff. Defendants aver that recording a mortgage on the Property would violate the discharge instructions from the United States Bankruptcy Court. In the New Matter, Defendants aver that they filed for bankruptcy and were granted a discharge on September 6, 2006. Thus, Defendants submit that any loan taken out with Plaintiff by Defendants was discharged. Defendants also aver that the instant action commenced by Plaintiff violates the Statute of Frauds by attempting to place an interest in real estate that was not in writing or signed. Additionally, Defendants raise the equitable defense of laches. On March 28, 2010, Plaintiff filed a Reply to the New Matter denying Defendants' allegations.

On October 10, 2008, Plaintiff filed a Motion for Summary Judgment. The Motion avers that Defendant Stafford Townsend executed the note at closing, and that both defendants were to execute the mortgage as well. On October 24, 2008, Defendants filed their Response to the Motion, as well as their own Motion for Summary Judgment. Defendants aver that Beryl Townsend did not execute the note, that there is no mortgage signed by either defendant to secure the note, and that Defendants received a discharge in bankruptcy of the unsecured loan. Defendants also aver that they would be prejudiced if Plaintiff's requested

relief were granted because the loan has already been discharged in bankruptcy.

On November 24, 2008, Plaintiff filed its Response to Defendants' Motion for Summary Judgment. Plaintiff avers that the terms of the loan obligation directed that the loan was to be evidenced by a note and secured by a mortgage on the Property. Plaintiffs also aver that they have recently located the note executed by Stafford Townsend, the mortgage executed by Defendants, and a HUD-1 Settlement Statement executed by Defendants. By way of New Matter, Plaintiff also objected to Defendants' Motion for Summary Judgment as untimely. On December 4, 2008, Defendants filed their Response to Plaintiff's New Matter.

On June 29, 2009, this Court denied both Plaintiff's and Defendants' Motions for Summary Judgment. On December 7, 2010, Defendants filed a Pre-Trial Memorandum. The Memorandum states that Defendants filed a voluntary Petition for Relief under Chapter 7 of the Bankruptcy Code on May 16, 2006, and subsequently received a discharge order on September 6, 2006 discharging all debt. It also states that Plaintiff is not the current holder of the alleged promissory note.

On December 9, 2010, Plaintiff filed a Pre Trial Memorandum. The Memorandum avers that, at closing on December 4, 2004, the underlying note was executed by Stafford Townsend, and

that the mortgage was executed by both Defendants. It also states that these acts were witnessed by Debra Sebelin, who also verified the parties' identities and notarized the mortgage. Plaintiff admits that the mortgage was never recorded in Carbon County, and that they have not been able to locate the original mortgage to be recorded. The expert report of Stephen M. Hladik, Esquire, was also attached to the Memorandum. Plaintiff is seeking to have an executed copy of the mortgage recorded and imposed as a valid first lien on the Property. In the alternative, Plaintiff seeks to impose an equitable lien on the Property in the amount of the outstanding loan balance.

On December 9, 2010, Defendants filed Motions in Limine seeking to exclude the expert testimony of Stephen M. Hladik, Esquire, due to a lack of qualification to render an opinion as to mortgage or bankruptcy matters, seeking to exclude Mr. Hladik's expert testimony because it is replete with legal conclusions, and seeking to exclude Mr. Hladik's report as untimely produced. Defendants also filed two Motions for Protective Orders seeking to prevent production of Defendants' bankruptcy file and to prevent Defendants' counsel, William G. Schwab, Esquire, from being compelled to testify at trial. On December 10, 2010, this Court granted Defendants' Motion in Limine as to the legal conclusions, and dismissed the remaining

two motions as moot. This Court also granted the Motions for Protective Orders on December 10, 2010.

On December 10, 2010, a non-jury trial was held in this matter before the undersigned. On March 3, 2011, Defendants filed a Post Trial Memorandum. Defendants argue that Plaintiff does not have standing in this action because they do not currently own the loan at issue. Defendants also argue that Plaintiff's exhibits should not be admitted into evidence under the business records exception to the hearsay rule. Defendants also submit that Plaintiff's representative cannot properly authenticate Plaintiff's exhibits and, therefore, the exhibits should not be admitted into evidence.

Defendants also argue that Plaintiff's evidence is not admissible because it consists of copies and not originals. Defendants further argue that the mortgage at issue is invalid because it is an improper attempt to collect on a discharged unsecured debt, and that Plaintiff cannot record the mortgage after the original debt was discharged in bankruptcy. Finally, Defendants contend that Plaintiff did not provide any argument or authority supporting its request for an equitable lien to be imposed on the property.

On March 21, 2011, Plaintiff filed a Trial Brief. Plaintiff argues that their exhibits should be admitted as business records because its representative properly authenticated them.

Plaintiff also argues that its exhibits should be admitted, even though they are copies, because Defendants never denied the authenticity of the Mortgage, the notary verified their identities and observed them execute the documents. It also states that its representative testified that Plaintiff does not have the original Mortgage or Note in its possession. Plaintiff also argues that Defendants' bankruptcy did not discharge the mortgage, because it was not avoided prior to the closing of the Defendants' bankruptcy. Plaintiff also argues that an unrecorded mortgage is valid as between the lender and borrower, and that Defendants intended to grant Plaintiff a security interest in their property.

On March 21, 2011, this Court received a Letter Response from Plaintiff's Counsel, dated March 16, 2011, to Defendants' Post Trial Memorandum. Plaintiff argues that the equitable lien of Defendants' unrecorded mortgage passed through the bankruptcy unaffected even though Defendants' personal liability was extinguished. Plaintiff also argues that unrecorded mortgages are valid as to the original parties, and that the recording statutes only protect subsequent purchasers.

On April 5, 2011, Defendants forwarded a Response to Plaintiff's March 21 letter. Defendants aver that the case of In re Funket, 27 B.R. 640 (M.D. Pa. 1982), controls the outcome of this case, and prohibits Plaintiffs from recording the mortgage.

They also aver that the mortgage is not valid because it was not recorded in a timely manner, and that Plaintiff cannot enforce the Note because they cannot prove what its terms were nor their right to enforce it.

DISCUSSION[1]

An action to quiet title may be brought, where an action of ejectment will not lie, to determine any right, lien, title or interest in the land or determine the validity or discharge of any document, obligation or deed affecting any right, lien, title or interest in land. Pa. R.C.P. 1061(b)(2). Such an action may also be brought to compel an adverse party to file, record, cancel, surrender, or satisfy of record, or admit the validity, invalidity, or discharge of any document, obligation, or deed affecting any right, lien, title, or interest in land. Pa. R.C.P. 1061(b)(3). The burden of proof in an action to quiet title is on the plaintiff. Montrenes v. Montrenes, 513 A.2d 983, 984 (Pa. Super. 1986). In such an action, the plaintiff can

[1] We note that Defendants have raised multiple objections to the evidence presented by Plaintiff in this case, both during closing argument and through their Post Trial Memorandum. Defendants also challenged the validity of the mortgage under Pennsylvania law. After considering Defendants' objections, and Plaintiff's response thereto, we conclude that Defendants' objections to the settlement statement (Plaintiff's Exhibit 3), the loan history (Plaintiff's Exhibit 14), the mortgage (Plaintiff's Exhibit 1), the note (Plaintiff's Exhibit 2), a 1992 mortgage (Plaintiff's Exhibit 17), the closing documents (Plaintiff's Exhibit 18), an M & T letter (Plaintiff's Exhibit 19) and a participating agreement (Plaintiff's Exhibit 25) as inadmissible business records under Pa. R.E. 803(6) should be sustained. However, since we do not grant Plaintiff's request to record the mortgage, we decline to discuss the evidentiary issues raised by Defendants in detail. We also decline to discuss the validity of the mortgage, as this issue is moot in light of the relief granted to Plaintiff by this Court.

recover only on the strength of his or her own title and not upon the weakness of the defendant's title. Id. While an action to quiet title is considered an action at law, the equitable defense of laches is nonetheless available. Zimnisky v. Zimnisky, 231 A.2d 904, 907 (Pa. Super. 1967).

1. PLAINTIFF HAS STANDING TO BRING THIS ACTION

"[A] party seeking judicial resolution of a controversy in this Commonwealth must, as a prerequisite, establish that he has standing to maintain the action." Irwin Union Nat. Bank and Trust Co. v. Famous, 4 A.3d 1099, 1106 (Pa. Super. 2010)(citations omitted). "The traditional concept of standing focuses on the idea that a person who is not adversely impacted by the matter he seeks to challenge does not have standing to proceed with the court system's dispute resolution process." Stilp v. Commonwealth of Pennsylvania, 927 A.2d 707, 710 (Pa. Cmwlth. 2007). "Pennsylvania courts do not render decisions in the abstract or offer purely advisory opinions; consistent therewith, the requirement of standing arises from the principle that judicial intervention is appropriate only when the underlying controversy is real and concrete." Id.

"A party has standing if he is aggrieved, *i.e.*, he can show a substantial, direct, and immediate interest in the outcome [.]" Irwin, 4 A.3d at 1106. "To establish an 'aggrieved' status, a party must have a substantial interest, that is, there

must be some discernible adverse effect to some interest other than the abstract interest of all citizens in having others comply with the law." Stilp, 927 A.2d at 710. "Also, an interest must be direct, which means that the person claiming to be aggrieved must show causation of the harm to his interest by the matter of which he complains." Id. "Further, the interest must be immediate and not a remote consequence of the judgment...." Id. "An immediate interest is shown 'where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or the constitutional guarantee in question.'" Unified Sportsmen of Pennsylvania ex rel. Their Members v. Pennsylvania Game Comm'n, 903 A.2d 117, 123 (Pa. Cmwlth. 2006)(citations omitted).

In this case, even though they do not currently hold the note or mortgage, Plaintiff has standing to bring this action based upon their contractual obligation to record the mortgage, and the apparent injury they will suffer by being required to repurchase the loan if it is not recorded. Cathleen Martin testified on behalf of Plaintiff that, while they do not own the loan, they must record the mortgage because they warranted it as a valid first lien when it was sold. (N.T., Non-Jury Trial, 12/10/2010, pp. 16-17). She also testified that if it is not recorded, Plaintiff would be obligated to repurchase the loan. (N.T., Non-Jury Trial, 12/10/2010, p. 17). Thus, Plaintiff has a

substantial and direct interest in ensuring that the mortgage is recorded or an equitable lien is imposed on the Property.

While Ms. Martin acknowledged that no demand has presently been made upon Plaintiff to repurchase the loan (N.T., Non-Jury Trial, 12/10/2010, p. 26), Plaintiff nonetheless has an immediate interest in this matter because Pa. R.C.P. 1061(b)(3) protects their right to bring an action to quiet title in order to compel an adverse party to record any document, obligation, or deed affecting any right, lien, title, or interest in land. Accordingly, based on the foregoing, Plaintiff has established sufficient facts to demonstrate that they have standing to bring this action.

2. THE DEFENDANTS' BANKRUPTCY DOES NOT PROHIBIT THE IMPOSITION OF A LIEN ON DEFENDANTS' PROPERTY

As a general rule, valid, perfected liens pass through bankruptcy unaffected. Dewshup v. Timm, 502 U.S. 410 (1992). Defendants argue that attempting to record the mortgage violates the automatic stay provisions of the United States Bankruptcy Code. While the automatic stay provisions contained in 11 U.S.C. § 362 protect debtors from acts to create, perfect or enforce a lien against their property or bankruptcy estate property, the automatic stay does not exist in perpetuity. Against estate property, the stay continues until the property in question is no longer estate property, and against the debtor's property,

the stay continues until the earliest of the closing of the case, dismissal of the case, or the granting/denying of a discharge under Chapter 7. 11 U.S.C. § 362(c). In either case, the automatic stay terminated in this matter when Defendants' personal liability on the note was discharged in bankruptcy on September 6, 2006, or when the Property was abandoned to them upon the closing of the bankruptcy case. See 11 U.S.C. § 554(c). Thus, the automatic stay provisions of the United States Bankruptcy Code do not prohibit an attempt to record the mortgage or impose an equitable lien on Defendants' Property.

Defendants also argue that attempting to record the mortgage violates the discharge injunction contained in 11 U.S.C. § 524. However, Section 524(a)(2) only operates as an injunction against further attempts at collection to enforce a discharged debt as a personal liability against the debtor. In Pennsylvania, an action in mortgage foreclosure is an *in rem* proceeding which imposes no personal liability on the mortgagor. In re Reed, 274 B.R. 155, 158 (W.D. Pa. 2002). Thus, as the court concluded in Reed, "Section 524(a)(2)...does not prohibit the holder of an unavoided lien from enforcing it against a debtor in an *in rem* proceeding. It prohibits only the commencement or continuation of an action to collect debtor's *personal* liability that arose in connection with the lien." Id. Additionally, in In re Pecora, 297 B.R. 1 (W.D. NY 2003), the

Court concluded that a post-discharge recordation of a mortgage to preserve the mortgagee's equitable lien rights, as opposed to recovering the discharged debt as a personal liability, did not violate the Chapter 7 discharge injunction. See also Estate of Lellock, 811 F.2d 186 (3d Cir. 1987)(holding that liens against property to secure debt which are created before the discharge of the underlying debt in bankruptcy survive the discharge).

Defendants cite In re Funket, 27 B.R. 640 (M.D. Pa. 1982), in support of their position that attempting to record the mortgage post-discharge violates the discharge injunction. In Funket, the Court concluded that recording a mortgage following a discharge of debt violates the discharge injunction because it constitutes an attempt to recover the discharged debt from the property of the debtor. Id. The Court relied upon the version of Section 524(a)(2) in effect at that time, which prohibited actions to collect or recover discharged debt "as a personal liability of the debtor, *or from property of the debtor*." Id. at 642 (emphasis added). However, the 1984 amendments to Section 524(a)(2) removed the aforementioned italicized language, and as a result the current version of the statute only prohibits attempts to collect discharged debt as a personal liability of the debtor. See 11 U.S.C. § 524 (legislative history). Thus, the discharge injunction contained in Section 524(a)(2) does not

prohibit Plaintiff from attempting to record the mortgage or impose an equitable lien upon Defendants' Property.

Based on the foregoing, the discharge of the Defendants' personal liability on the note in their prior bankruptcy proceedings does not prohibit Plaintiff from attempting to record the mortgage or impose an equitable lien upon Defendants' Property, and thus has no effect on the instant action to quiet title.

3. AN EQUITABLE LIEN SHOULD BE IMPOSED UPON DEFENDANTS' PROPERTY

An equitable "lien arises either from a written contract which shows an intention to charge some particular property with a debt or obligation, or is implied and declared by a court of equity out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings." Baranofsky v. Weiss, 182 A. 47, 48-49 (Pa. Super. 1935)[2]. To establish a right to an equitable lien, the evidence "'must be clear, precise and indubitable as to the intention of the parties." Mermon v. Mermon, 390 A.2d 796, 799 (Pa. Super. 1978). "There must be an obligation owing by one person to another, a Res to which that obligation attaches, and an intent by all parties that the property serve as security for

[2] We note that Pa. R.E. 1002 does not prohibit a witness from testifying as to an event or transaction that may also be proven by a writing. See also Masse v. Quartucci, 85 A.2d 690 (Pa. Super. 1952)(holding that testimony that check was paid was adequate even though the cancelled check was available).

the payment of the obligation." Id. at 800. Before an equitable lien may be imposed upon real estate as security for a debt, there must be an unambiguous and clear agreement evidencing an intent to impose an equitable lien. Id. The mere borrowing of money to pay the purchase price for real estate does not in itself give rise to an equitable lien in favor of the lender, absent a showing of an intention to create it. Id.

In this case, Mr. Townsend admitted that he granted Plaintiff a mortgage on December 9, 2004 in the amount of one hundred twenty-four thousand, eight hundred dollars ($124,800). (N.T., Non-Jury Trial, 12/10/2010, pp. 71, 73). He also does not dispute borrowing money personally. (N.T., Non-Jury Trial, 12/10/2010, p. 88). He admitted that the proceeds of the loan were used to satisfy a prior mortgage with Plaintiff. (N.T., Non-Jury Trial, 12/10/2010, p. 80). He also testified that he made mortgage payments from 2005 through 2008, but that he stopped making payments after he was served with a copy of Plaintiff's Complaint. (N.T., Non-Jury Trial, 12/10/2010, pp. 84, 85, 87). However, he stated that the signature on the mortgage identified in Plaintiff's Exhibit 1 looks like his, but he cannot be certain without seeing the original. (N.T., Non-Jury Trial, 12/10/2010, p. 70). He also stated that he assumed that the initials on the document are his, but he doesn't know. (N.T., Non-Jury Trial, 12/10/2010, p. 71). He did not recognize

his wife's initials or her signature on the document. (N.T., Non-Jury Trial, 12/10/2010, pp. 75, 77).

As to the Note (Plaintiff's Exhibit 2), Mr. Townsend testified that he thinks that he has seen that document before, but that he doesn't recognize his initials. (N.T., Non-Jury Trial, 12/10/2010, p. 79). He also didn't recognize his or his wife's signature on the Settlement Statement (Plaintiff's Exhibit 3). Mr. Townsend seems to authenticate the Bankruptcy Petition (Plaintiff's Exhibit 8), the Loan Application (P-12), and the Mortgage Loan Statements (Plaintiff's Exhibit 13). (N.T., Non-Jury Trial, 12/10/2010, p. 82). He stated that the claim listed in the Petition against his property for one hundred twenty thousand, six hundred four dollars ($120,604) is for the mortgage granted on the Property. (N.T., Non-Jury Trial, 12/10/2010, p. 82).

Mrs. Townsend testified that she and her husband granted Plaintiff a mortgage on their property on December 9, 2004. (N.T., Non-Jury Trial, 12/10/2010, p. 90). She does not recognize her or her husband's initials or signature on the Mortgage. (N.T., Non-Jury Trial, 12/10/2010, pp. 88, 89). She admitted providing the notary with a non-driver identification card from New York, and stated that her husband also provided his driver's license to the notary. (N.T., Non-Jury Trial, 12/10/2010, pp. 94, 97). She also states that the notary

witnessed her signature on the loan documents. (N.T., Non-Jury Trial, 12/10/2010, p. 98). She was shown Plaintiff's Exhibit 17 and Plaintiff's Exhibit 8 by Plaintiff's counsel. (N.T., Non-Jury Trial, 12/10/2010, pp. 99-100). She also admitted to making payments on the mortgage from 2005 through 2008. (N.T., Non-Jury Trial, 12/10/2010, p. 101). She acknowledged that Plaintiff's Exhibit 8, which is Defendants' Voluntary Petition in bankruptcy, includes their bankruptcy schedules, but could not determine if the signatures on the schedules or on the mortgage are hers. (N.T., Non-Jury Trial, 12/10/2010, pp. 103, 105).

Bankruptcy Trustee John Martin testified that Defendants also listed the mortgage lien on their bankruptcy schedules. (N.T., Non-Jury Trial, 12/10/2010, pp. 48, 51). As to the Notary, she stated that she wrote the driver's license number for Stafford Townsend and the information she took from his license on a copy of the invoice of the company who hired her (Plaintiff's Exhibit 26). (N.T., Non-Jury Trial, 12/10/2010, pp. 9-10). She also saw Beryl Townsend's driver's license and copied information from it. (N.T., Non-Jury Trial, 12/10/2010, p. 10). The Notary signed the mortgage that the Defendants allegedly signed, but she does not specifically remember meeting them. (N.T., Non-Jury Trial, 12/10/2010, pp. 6, 13). She also cannot say that the Note (Plaintiff's Exhibit 2) was what was signed in front of her. (N.T., Non-Jury Trial, 12/10/2010, pp. 12, 15-16).

Mr. Smith from Chase testified that the last payment on the loan was made on June 10, 2008. (N.T., Non-Jury Trial, 12/10/2010, p. 22). He also presented testimony concerning the balance of the loan as of March 31, 2008 ($112,455.17), and further testified that payments were made in 2005 through part of 2008. (N.T., Non-Jury Trial, 12/10/2010, pp. 23-24).

In this case, the evidence supports the imposition of an equitable lien upon Defendants' Property. Defendants admitted to borrowing money from Plaintiff and granting Plaintiff a mortgage on their Property. Defendants also admitted to making payments on the mortgage from 2005 through 2008. The mortgage lien was also listed on the Defendants' bankruptcy schedules. Defendants were also observed by the notary executing mortgage and loan documents in relation to the claims made by Plaintiff in this matter. Thus, the evidence shows that Defendants clearly intended to grant Plaintiff a security interest in their Property. The evidence also establishes the existence of an obligation owed by Defendants and a res to which that obligation attaches. Accordingly, the requirements of Baranofsky and Mermon have been satisfied in this case, and Plaintiffs will be granted an equitable lien on the Property in the amount of the outstanding loan balance of one hundred twelve thousand, four hundred fifty-five dollars and seventeen cents ($112,455.17).

CONCLUSION

For the foregoing reasons, this Court concludes that an equitable lien shall be imposed against the Property in the amount of the outstanding loan balance of one hundred twelve thousand, four hundred fifty-five dollars and seventeen cents ($112,455.17). Accordingly, we will enter an appropriate verdict in favor of Plaintiff and against Defendants.

BY THE COURT:

Steven R. Serfass, J.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

M & T MORTGAGE CORP.,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 08-0238
	:	
STAFFORD TOWNSEND AND BERYL TOWNSEND,	:	
	:	
	:	
Defendants	:	

Christopher J. Fox, Esquire — Counsel for Plaintiff
William G. Schwab, Esquire — Counsel for Defendants

VERDICT

AND NOW, to wit, this 30th day of December, 2011, this matter having come before the Court for a non-jury trial, and in accordance with our Memorandum Opinion of this same date, the Court finds **IN FAVOR** of the Plaintiff, M & T MORTGAGE CORP., and **AGAINST** the Defendants, STAFFORD TOWNSEND AND BERYL TOWNSEND.

It is hereby **ORDERED and DECREED** that an equitable lien shall be imposed against the property known as 875 Towamensing Trail, Albrightsville, Carbon County, Pennsylvania, which is further identified as Carbon County Tax Parcel Number 22A-51-B875 (hereinafter "Property"), in favor of the Plaintiff, in the amount of one hundred twelve thousand, four hundred fifty-five dollars and seventeen cents ($112,455.17);

It is **FURTHER ORDERED and DECREED** that the Defendants and their heirs or assigns are forever barred from asserting any

right, lien, title, or interest in the Property, inconsistent with the interest or claim of the Plaintiff set forth in the Complaint, unless the Defendants file exceptions within thirty (30) days from the entry of this verdict. If such action is not taken within the aforesaid thirty (30) day period, the Prothonotary shall, on praecipe of the Plaintiff, enter final judgment imposing an equitable lien upon the Property in the amount of one hundred twelve thousand, four hundred fifty-five dollars and seventeen cents ($112,455.17), in accordance with Pa. R.C.P. 1061(b)(2); and

It is **FURTHER ORDERED and DECREED** that, upon filing of the final judgment with the Prothonotary, the Plaintiff shall record certified copies of this verdict and the final judgment with the Carbon County Recorder of Deeds.

BY THE COURT:

_____

Steven R. Serfass, J.