

IN THE COURT OF APPEALS 12/17/96

OF THE

STATE OF MISSISSIPPI

NO. 95-CA-00924 COA

CHARLES O. JONES, TRUSTEE, AND H. J. RAY

APPELLANTS

v.

EDNA B. SKELTON

APPELLEE

PER CURIAM AFFIRMANCE MEMORANDUM OPINION

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. DENISE OWENS

COURT FROM WHICH APPEALED: HINDS COUNTY CHANCERY COURT

ATTORNEY FOR APPELLANTS:

CHARLES O. JONES

ATTORNEY FOR APPELLEE:

B. R. HARDIN

NATURE OF THE CASE: CIVIL

TRIAL COURT DISPOSITION: CHANCELLOR SET ASIDE A FORECLOSURE SALE ON
THE BASIS THAT THE SALES PRICE WAS SO INADEQUATE AS TO SHOCK THE
COURT'S CONSCIENCE.

BEFORE FRAISER, C.J., DIAZ, AND KING, JJ.

PER CURIAM:

Edna B. Skelton defaulted on a promissory note to H. J. Ray for the purchase of five acres of land, which contained a cabin, catfish shack, and pond. Ray foreclosed on the property and as the sole bidder paid \$3,900.00 for the property valued at not less than \$24,000.00. Skelton filed suit to have the foreclosure sale set aside as inadequate. The Chancery Court of Hinds County found that the \$3,900.00 that Ray paid at foreclosure was so inadequate that it shocked the court's conscience. Charles O. Jones and H. J. Ray, co-Appellants, appeal the chancellor's order contending that she erred in finding that the fair market value of the foreclosed property was \$24,000.00. Finding no error in the chancellor's ruling, we affirm.

The Mississippi Supreme Court will not disturb the findings of a chancellor when supported by substantial evidence unless the chancellor abused her discretion, was manifestly wrong, clearly erroneous, or an erroneous legal standard was applied. *Denson v. George*, 642 So. 2d 909, 913 (Miss. 1994) (citations omitted). In the present case, since there was no evidence of an actual appraisal the chancellor was free to determine the fair market value based on the evidence and testimony presented during trial. *Allied Steel Corp. v. Cooper*, 607 So. 2d 113, 120 (Miss. 1992) (the determination of the fair market value is a question for the trier of fact). The record indicates that Ray testified that he valued the property at more than \$30,000.00 before selling it to Skelton in 1992. Just before he foreclosed on the note, the property suffered damage, and its value diminished by at least \$5,000.00. Ray still acknowledged that the property was worth more than \$3,900.00. Consequently, the court found the fair market value of the property to be at least \$24,000.00 after considering the damage and its existing condition. The chancellor further found that the \$3,900.00 paid by Ray at foreclosure was so inadequate that it shocked the conscience of the court and set the sale aside. Finding that the chancellor's ruling was supported by substantial evidence, we will not disturb that ruling. Therefore, we affirm the chancery court's judgment.

THE JUDGMENT OF THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY IS AFFIRMED. COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANTS.

FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.