

DISTRICT COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 3901/16

First Plaintiff : **JANET CRAVEN**
AND
Second Plaintiff : **GORDON JAMES CRAVEN**
-V-
First Defendant : **PENELOPE DJORDJEVIC (nee CRAVEN)**
AND
Second Defendant : **DAVID JAMES HAMBLETON**

NOTICE TO ADMIT FACTS

To the SECOND DEFENDANT :

TAKE NOTICE that the Plaintiffs in this proceeding propose to prove the facts specified below, and if you do not within 14 days serve a notice on the Plaintiffs disputing the facts you are taken to admit, for this proceeding only, the facts specified in this notice.

Under Rule 189 if you dispute any such fact and afterwards the fact is proved in this proceeding, you must pay the costs of proof, unless the court otherwise orders.

The facts, the admission of which is required, are -

1. The Second Defendant induced or instructed or required or influenced or otherwise persuaded the First Defendant to agree to the following 2 separate assertions that appear in a Deed of Settlement dated 26 June 2015 that was made between the First and Second Defendants ('Craven' being the First Defendant) :
 - *At the time of Craven becoming the sole registered owner of the Property, the Bankrupt Gordon Craven provided the deposit monies to purchase the Property from the sale proceeds of properties previously owned by him.*
 - *The Bankrupt Gordon Craven sought to vest his right, title and interest in the name of his daughter Craven to defeat creditors.*

29 JUN 2017



NOTICE TO ADMIT FACTS
Filed by the Plaintiffs
Form 23, Version 1
Uniform Civil Procedure Rules 1999
Rule 189

JANET & GORDON CRAVEN
4 Spicer Street
Gympie QLD 4570
Phone No: 07 5482 8382
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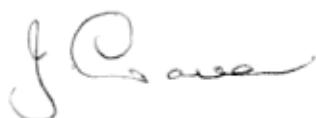
- 1.1 The page bearing the 2 separate assertions identified by (iv) and (v), is attached hereto as Annexure 1.
- 1.2 As a Trustee in Bankruptcy, the Second Defendant did not obtain proper evidence to prove the truth of the matters asserted, by way of sworn affidavit or statutory declaration or relevant documents from First Defendant, to cause the 2 separate assertions to be incorporated into the Deed of Settlement.
- 1.3 As a Trustee in Bankruptcy, the Second Defendant did not obtain proper evidence to prove the truth of the matters asserted, by way of sworn affidavit or statutory declaration or relevant documents from any person, to cause the 2 separate assertions to be incorporated into the Deed of Settlement.
2. The Second Defendant induced or instructed or required or influenced or otherwise persuaded the First Defendant to make the following assertions that involve the First Plaintiff, that appear in an email dated 25 June 2015 from the First Defendant to the Second Defendant in response to an email dated 24 June 2015 from the Second Defendant to the First Defendant :
 - *...I have already resolved any valid claims against the property. Mrs Janet Craven does not hold title, nor an equitable interest, in my property.*
- 2.1 The said email containing the discourse, is attached hereto as Annexure 2.
- 2.2 As a Trustee in Bankruptcy, the Second Defendant did not obtain proper evidence to prove the truth of the the First Defendant's assertions, by way of sworn affidavit or statutory declaration provided by the First Defendant; or
 - (a) by viewing copies of resolution documents; or
 - (b) by viewing copies of mortgage payments; or
 - (c) by viewing copies of any other relevant documents;provided by First Defendant, to substantiate the First Defendant's claims regarding:
 - (d) her resolution of any valid claims against the Property;
 - (e) how the First Plaintiff (*Mrs Janet Craven*) had no equitable interest in the property;
 - (f) the First Plaintiffs claim to the property being unsubstantiated;
 - (g) the First Defendant's servicing of the mortgage in order to substantiate her claim that the property was hers both legally, and also equitably shared with the Second Plaintiff by virtue of her assertions as set out at paragraph 1;

- (h) the First Defendant's contribution/s to the purchase or improvement/s to the property in order to substantiate her claim that the property was hers both legally, and also equitably shared with the Second Plaintiff by virtue of her assertions as set out at paragraph 1;
 - (i) the First Defendant having any equity in the property at all, if she had provided no evidence to prove the truth of the matters at (g) and (h), and by virtue of her assertions as set out at paragraph 1;
 - (j) why the First Defendant could not continue to service the mortgage, as it is implied from the discourse that she had been paying the mortgage.
- 2.3 As a Trustee in Bankruptcy, the Second Defendant did not obtain proper evidence to prove the truth of the matters asserted at paragraph 2, by way of sworn affidavit or statutory declaration or relevant documents, provided by any person.
- 2.4 As a Trustee in Bankruptcy, the Second Defendant had no proper evidentiary basis to prove the truth of the matters asserted, to induce or instruct or require or influence or otherwise persuade the First Defendant to make the assertions as set out at paragraph 2.
3. As a Trustee in Bankruptcy, the Second Defendant offered to 'split the net proceeds' of the property (as per contained within the discourse in Annexure 2), without first obtaining proper evidence to prove the truth of why the proceeds should be split with the First Defendant in the way as set out, or at all.

If you are to deny any of these matters, please address and individually deny each and every paragraph and sub-paragraph that you are denying.

Please note, that as the Plaintiffs are litigants in person and cannot claim costs for proving these matters, the Plaintiffs intend to seek exemplary damages regarding conduct in litigation, from the Second Defendant for any failing to admit matters that should be admitted.

Signed:



Description: First Plaintiff



Second Plaintiff

Dated: 26 June 2017

Annexure 1

2

Dated this 26th day of June 2015.

PARTIES

DAVID JAMES HAMBLETON AS TRUSTEE FOR THE BANKRUPT ESTATE OF GORDON CRAVEN of Rodger's Reidy, GPO Box 471, Brisbane QLD 4001 (hereinafter known as the "Trustee")

AND

PENELOPE CRAVEN of 63 Nandroya Road, Cooroy QLD 4563 (hereinafter known as "Craven")

BACKGROUND

- (i) The Trustee was appointed to the Bankrupt Estate of Gordon Craven by Sequestration Order on 5 March 2015 in proceedings QUD251/2014 before the Federal Court of Australia.
- (ii) Craven is the daughter of the Bankrupt Gordon Craven.
- (iii) Craven is the sole registered owner of a property at 63 Nandroya Road, Cooroy QLD 4563 more particularly described as Lot 766 on RP 910330, County of Canning, Parish of Maroochy, Title Reference 50425546 ("the Property").
- (iv) At the time of Craven becoming the sole registered owner of the Property, the Bankrupt Gordon Craven provided the deposit monies to purchase the Property from sale proceeds of properties previously owned by him.
- (v) The Bankrupt Gordon Craven sought to vest his right, title and interest in the name of his daughter Craven to defeat creditors.
- (vi) The Property is leased by Craven to Penny's Flowers Pty Ltd ACN 123 616 731 a Company which Craven is ^{a former} ~~also~~ Director of. The lease commenced 7 February 2007 and is periodic without a fixed date of expiry.
- (vii) Penny's Flowers Pty Ltd sub-leases the Property to the Bankrupt Gordon Craven and his wife Janet Craven. The sub-lease commenced 25 June 2007 and is periodic without a fixed date of expiry.
- (viii) The Trustee claims an interest in the Property as the Trustee of the Bankrupt Estate of Gordon Craven.
- (ix) The parties desirous of avoiding costly and time consuming litigation have agreed to resolve their dispute in accordance with the terms of this Deed.
- (x) Craven has agreed to appoint the Trustee as Power of Attorney to effect any necessary steps contemplated by this Deed.
- (xi) Craven and the Trustee has agreed that the tenants, Penny's Flowers Pty Ltd, the Bankrupt Gordon Craven and Janet Craven will have their leases terminated by Craven and/or the Trustee.
- (xii) Craven and the Trustee have agreed the Property will be placed on the market to be sold as soon as possible.
- (xiii) Craven and the Trustee have agreed that the proceeds of sale will be dealt with in the following priority;
 - (a) Discharge of the Bankwest Mortgage No. 712849007 secured against the Property;
 - (b) Payment of the Selling Agent's or Auctioneer's commission and expenses;

Annexure 2

Jeslin Thing

From: Penny Djordjevic <[REDACTED]>
Sent: Thursday, 25 June 2015 7:48 AM
To: David Hambleton
Subject: Re: Gordon Craven

Hi David,
I authorize Mr David Hambleton to act on my behalf and speak with the legal representative(s) of Mrs Janet Craven, in order to determine the nature of her claim against my property. It is imperative that this occur as I am unable to service the mortgage on the property, or pay for legal representation in a situation whereby I have already resolved any valid claims against the property. Mrs Janet Craven does not hold title, nor an equitable interest, in my property.

Thank you
Penny Djordjevic

On Wednesday, 24 June 2015, 23:34, David Hambleton wrote:

Penny

Thank you for your call today

I confirm that we had reached a settlement whereby you will provide us with a Power of Attorney to sell your property and we will split the net proceeds as per the terms of our settlement.

I understand, subsequent to our settlement, you have received an email from Mr Taylor – a Solicitor acting for your mother Janet Craven

I understand that the email suggests that Janet Craven – or possibly an entity owned by her - holds title to your property

I understand that this causes you distress as:

1. You believe you hold title to the property - not Mrs Craven or possibly an entity owned by her
2. It is your desire to sell the property – which matches both my desire as Trustee of Gordon Craven (A bankrupt) and Janet Craven (per one interpretation of Mr Taylor's email)
3. You are unable to continue to service the mortgage on the property, and any adverse action by Mrs Craven may cause you substantial financial distress including a shortfall to the mortgagee
4. It is your desire to complete the settlement terms we reached but you may not be able due to Janet Craven's unsubstantiated claim to your property.

As discussed, I ask that you authorize me to contact Mr Taylor and determine Janet Craven's claim to your property so that we can effectuate / complete our settlement.

Please send the following email

I authorize Mr David Hambleton to act on my behalf and speak with the legal representative(s) of Mrs Janet Craven, in order to determine the nature of her claim against my property. It is imperative that this occur as I am unable to service the mortgage on the property, or pay for legal representation in a situation whereby I have already resolved any valid claims against the property. Mrs Janet Craven does not hold title, nor an equitable interest, in my property.

Regards

David Hambleton
Director

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