U. S. District Court,
Southern District of Iowa
To
Jemima McGinnis

#1151

Fee $3.00 ✓

Filed for record the 27 day of March A.D. 1944 at 3:40 o'clock P.M.

Pearl E. Shetterly, Recorder

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

In the Matter of Jemima McGinnis, Debtor-bankrupt } No. 225 TRANSCRIPT

On March 15, 1943, there was filed in the office of the Clerk of the United States District Court for the Southern District of Iowa, Central Division, in Des Moines, Iowa, the petition of Jemima McGinnis, in proceedings under Section 75 of the Bankruptcy Act of the United States, as amended, alleging that she is personally and bona fide engaged primarily in farming operations in the County of Madison, within the judicial district of the Southern District of Iowa, Central Division, and listing among her assets real estate described as the East One-half of the Northeast Quarter of Section 26, except the railroad, and the Southwest Quarter of the Southwest Quarter of Section 23, all in Township 75 North, Range 26 West of the 5th P.M., in Madison County, Iowa, encumbered by mortgage for the principal sum of $9063.00, recorded in Book 72 of Real Estate Mortgage Records of Madison County, Iowa, at Page 503, said mortgage being dated July 21, 1927, made by J. Y. McGinnis, now deceased, husband of said Jemima McGinnis, and by said Jemima McGinnis, to J. F. Johnston, and by said J. F. Johnston assigned to C. C. Guilliams, of St. Charles, Iowa, such mortgage having been put into foreclosure by said C. C. Guilliams in Cause No. 17197 Equity in Madison County, Iowa, District Court, in which decree was entered, dated March 16, 1942, and in which said real estate was sold at sheriff's sale on April 27, 1942, to said C. C. Guilliams as the successful bidder, for the sum of $14,000.00, leaving a deficiency of $3,215.20; and listing as the homestead of said Jemima McGinnis the South East Quarter of the North East Quarter of Section 26, Township 75 North, Range 26 West of the 5th P.M., and listing certain personal property consisting of household goods, livestock and miscelleneous personal property, and listing no indebtedness except taxes on said real estate, of the year 1942, payable in 1943, and personal taxes of Jemima McGinnis for 1942, payable in 1943, and except said mortgage indebtedness hereinbefore stated.

On March 18, 1943, said petition was approved, and an order of reference was made by N. F. Reed, Clerk of the United States District Court for the Southern District of Iowa, referring said petition of Jemima McGinnis to C. Dana Reed, one of the Conciliation Commissioners of said Court.

On March 26, 1943, an order was made and entered by C. Dana Reed, Conciliation Commissioner, fixing the date of the first meeting of creditors for April 9, 1943, at 10 A.M., before said Conciliation Commissioner at his office at 215 Valley Bank Bldg., Des Moines, Iowa, and ordering that the debtor appear in person at said meeting of creditors, with Summary of Debtor's Assets and Liabilities appended thereto, was sent by mail, on the 26th day of March, 1943, to the only creditors listed in said matter, to wit: C. C. Guilliams, address, St. Charles, Iowa, and H. M. Sexton, County Treasurer of Madison County, Iowa, address, Winterset, Iowa, and notice of said first meeting of creditors was also published in the Winterset Madisonian, a newspaper printed and published in Winterset, Iowa, in its issue of March 31, 1943, as shown by the affidavit of publication made by Marion S. Moore, publisher, and filed with said Conciliation Commissioner on April 5, 1943.

On April 9, 1943, said Jemima McGinnis filed with said Conciliation Commissioner her proposal for composition, and at the first meeting of creditors said Jemima McGinnis appeared in person, and by her attorney, Daniel J. Gallery, of Winterset, Iowa, and said C. C. Guilliams, creditor, appeared in person and by his attorney, Robert J. Bannister, of Des Moines, Iowa, and no other creditor or other interested party appeared, and at said meeting said C. C.

Guilliams rejected said proposal for composition made by Jemima McGinnis, and on April 9, 1943, said Jemima McGinnis filed with said Conciliation Commissioner an Amendment to her petition, stating that having failed to obtain the acceptance of a majority in number and amount of all creditors whose claims are affected by the proposal offered for composition, and said proposal having been rejected, she amends her petition and asks to be adjudged a bankrupt, and further petitions the Court that all her property, wherever located, whether pledged, encumbered or unencumbered, be appraised, and that her exemptions be set aside to her, and that she be allowed to retain possession, under the supervision of the Court, of all the remainder of her property, including all exemptions under the terms and conditions of Section 75(s) of the U.S.Bankruptcy Act and any amendments thereto applicable to his matter. Said Amendment to Petition was also received and filed on May 13, 1943, by N.F.Reed, Clerk of the United States District Court for the Southern District of Iowa, as shown by the statement of filing thereon,

At said first meeting of creditors the debtor was examined by the attorney for C. C. Guilliams. On April 13, 1943, an order was entered by said Conciliation Commissioner providing that said Jemima McGinnis be and is adjudicated a bankrupt, and that her exempt property is set off to her, and that all proceedings in the State Court be and are stayed for a period of three years from April 13, 1943, during which time said debtor shall be allowed to retain possession of all her property, under the supervision and control of the Court, and that said debtor-bankrupt shall pay a cash rent of 1943 for said premises for 1943, payable $450.00 on or before Oct. 1, 1943, and $450.00 on or before Jan. 1, 1944, and said order appointed and commissioned G. Edwin Schlenker of Ankeny, Iowa, to appraise all of the property of the debtor-bankrupt and make his report within ten days after notification of appointment, and on April 13, 1943, an order of said Conciliation Commissioner was entered setting off to said Jemima McGinnis as her homestead the premises designated as her homestead in her said petition, the same being set off subject only to the lien of the mortgage holder thereon.

On April 23, 1943, said G. Edwin Schlenker filed his report of appraisement with said Conciliation Commissioner, and hearing on said report was set for May 8, 1943, at 10 A.M. before said Commissioner, and notice was given to the creditors in said matter. On April 29, 1943, said C. C. Guilliams filed his claim with said Conciliation Commissioner, stating a claim of $17,865.99, as evidenced by a judgment, as shown by a certified copy of decree attached, which decree is in the case of C. C. Guilliams, Plaintiff vs. Jemima McGinnis, et al., Defendants, No. 17197 Equity in Madison County, Iowa, District Court, and on May 8, 1943, said C. C. Guilliams filed objections to the approval of the appraisement made by said G. Edwin Schlenker, and also filed a motion to restrict the time for the debtor to retain possession of the real estate described in said debtor's petition, on the grounds that an emergency no longer existed. On May 8, 1943, at 10 A.M. a hearing was held at which both said Jemima McGinnis and C. C. Guilliams were represented by counsel, and the Conciliation Commissioner, on the basis of evidence offered, disapproved the appraisal made by G. Edwin Schlenker and fixed the value of the East Half of the Northeast Quarter of Section 26, except the railroad, in Township 75 North, Range 26, West of the 5th P.M., at $12,000.00, and the value of the Southwest Quarter of the Southwest Quarter of Section 23, Township 75 North, Range 26 West of the 5th P.M., at $1,600.00, and said Conciliation Commissioner also overruled the motion of C. C. Guilliams to restrict the time for Jemima McGinnis to retain possession of the said real estate.

On May 14, 1943, there was filed with said Conciliation Commissioner an order of reference, dated May 13, 1943, made by the Clerk of the United States District Court for the Southern District of Iowa, by reason of the Amendment to petition filed by said Jemima McGinnis to be

adjudged a bankrupt, said order of reference referring said matter to C. Dana Reed, one of the Conciliation Commissioners of said Court, to consider said petition and take such proceedings therein as are required by the Bankruptcy Act.

Said C. C. Guilliams filed exceptions and a Petition for Review of said order of the Conciliation Commissioner overruling the motion of C. C. Guilliams to restrict the time for debtor to retain possession of the real estate, and on June 19, 1943, said exceptions and petition for review were presented to the Hon. Chas. A. Dewey, United States District Judge for the Southern District of Iowa, at Des Moines, Iowa, both said Jemima McGinnis and C. C. Guilliams appearing by attorney, and on June 28, 1943, said Judge of the United States District Court filed his order, finding that no emergency exists in agriculture in the locality where the land of the bankrupt is located, and directing that C. Dana Reed, the Conciliation Commissioner, terminate the stay the stay of proceedings as against C. C. Guilliams, the mortgagee and secured creditor, and to vacate said stay order not later than February 1, 1944, and that during the intervening period the bankrupt shall have all the benefits of the occupancy of the land described in the petition and schedule in accordance with the order as entered by the Commissioner, and all rights of redemption as provided by law and the provisions of Section 75 of the Bankruptcy Act as amended. Said order was filed with C. Dana Reed, Conciliation Commissioner, on June 30, 1943.

On January 31, 1944, at 3 P.M., said Jemima McGinnis filed in the office of said C. Dana Reed, Conciliation Commissioner, her offer of redemption of the East Half of the Northeast Quarter of Section 26, except the railroad, in Township 75 North, Range 26 West of the 5th P.M., and tendered the amount necessary for redemption thereof at the appraised value of $12,000.00, of which amount, $5,750.00 was in the form of a cash deposit and $6,250.00 in the form of a commitment from the Bankers Life Company of Des Moines, Iowa. On February 1, 1944, an order was entered terminating the stay as to the Southwest Quarter of the Southwest Quarter of Section 23, Township 75 North, Range 26 West of the 5th P.M., and providing that jurisdiction is maintained over the East Half of the Northeast Quarter of Section 26, except the railroad, in Township 75 North, Renge 26 West of the 5th P.M.

On February 1, 1944, said Conciliation Commissioner fixed a hearing to be held on said offer of redemption on February 11, 1944, at 10 A.M. at the office of said Conciliation Commissioner at 215 Valley Bank Bldg., Des Moines, Iowa, and gave written notice thereof by mail to C. C. Guilliams, address, St. Charles, Iowa, and to Robert Bannister, address, 1009 Bankers Trust Bldg., Des Moines, Iowa, and to Dan Gallery, attorney, address, Winterset, Iowa, On February 5, 1944, said C. C. Guilliams filed objections to said offer of redemption made by Jemima McGinnis on the grounds that she should not be permitted to redeem part of the real estate and not all of it. On February 11, 1944, at 10 A.M. hearing was held on said offer of redemption and the objections thereto, at said office of said Conciliation Commissioner, at which hearing said C. C. Guilliams appeared in person and by his attorney, Robert Bannister, and Jemima McGinnis appeared by her attorney, Daniel J. Gallery, and evidence was introduced and statements of counsel were made, and the matter was taken under advisement by the Conciliation Commissioner until Feb. 18, 1944, when he filed his opinion, holding that said Jemima McGinnis is entitled to redeem the part of the real estate for which she has made offer of redemption, without redeeming any more of the real estate described in her petition and on February 18, 1944, said Conciliation Commissioner signed and filed an order overruling the objections of C. C. Guilliams to said offer of redemption and turning over to Jemima McGinnis the title and possession of the premises for which she made offer of redemption, free and clear of all encumbrances and liens, except the lien of the 1943 taxes due and payable during 1944, said order being in words and figures as follows:

In the United States District Court In and for the Southern District of Iowa
Central Division

In the Matter of Jemima McGinnis, Debtor-Bankrupt,) Case No. 225) Order

Upon giving consideration to the application of the debtor-bankrupt to effect a redemption, and upon giving further consideration to the secured creditor's objection thereto and to the record evidence and the arguments and presentations of counsel for the debtor-bankrupt and the secured creditor,

It is hereby Ordered that the objections of the secured creditor to the application to redeem filed by the debtor-bankrupt be and the same are hereby overruled.

It is further Ordered that title to and possession of the following described premises situated in the County of Madison and State of Iowa, to-wit:

The East Half (E½) of the Northeast Quarter (NE¼) of Section Twenty-six (26), except the railroad Right-of-way, in Township Seventy-five North (75N.), Range Twenty-six (26), West of the 5th P.M.

be and both are hereby turned over to the debtor-bankrupt herein, free and clear of all encumbrances and liens, except the lien of the 1943 taxes due and payable during 1944.

C. C. Guilliams, the secured creditor herein, duly excepts.

Dated and signed this 18th day of February, 1944.

(Signed) C. Dana Reed
Conciliation Commissioner

That said Order was filed in the office of said Conciliation Commissioner on February 18, 1944.

That no exceptions or objections have been filed to said order of February 18, 1944, and no petition for review thereof has been filed, and appeal has been taken therefrom by said C. C. Guilliams or by any other party.

CERTIFICATE

United States of America Southern District of Iowa)ss:

The undersigned does hereby certify that he is Conciliation Commissioner for the United States District Court in and for the Southern District of Iowa, Central Division, in and for the County of Polk, and also Conciliation Commissioner for the County of Madison, in the Southern District of Iowa, Central Division, with his office located at 215 Valley Bank Building, in Des Moines, Iowa, and that the above and foregoing is a full, true and complete transcript of all proceedings had before him in connection with the said matter of Jemima McGinnis, debtor-bankrupt, No. 225, in the United States District Court for the Southern District of Iowa, Central Division, and in connection with the real estate described in said transcript.

Dated and signed this 24th day of March, 1944.

C. Dana Reed
Conciliation Commissioner

CERTIFICATE

United States of America Southern District of Iowa Polk County)SS:

The undersigned Clerk of the United States District Court in and for the Southern District of Iowa does hereby certify that he is the Clerk of the United States District Court in and for the Southern District of Iowa, and that C. Dana Reed, of Des Moines, Iowa, is the Conciliation Commissioner for Madison County, Iowa, in the Southern District of Iowa, Central Division, and that the Matter of Jemima McGinnis, No. 225, in the United States District Court in and for the Southern District of Iowa, Central Division, was referred by the under signed Clerk to said C. Dana Reed, as Conciliation Commissioner.

Dated and signed this 25th day of March, 1944.

(UNITED STATES DISTRICT COURT SEAL)

N F Reed Clerk of the United States District Court in and for the Southern District of Iowa

COMPARED