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Cook County Recorder 27.50

3315 (4/27/99) CCG 0015

Memorandum of Judgment



0010055119

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

R & D Thiel, Inc.,

Plaintiff

v.

Hoffman Homes, Inc., and, THC
Woodland Hills, Inc.,

Defendants

Recorder's Stamp

No. 99 CH 15645

MEMORANDUM OF JUDGMENT

On January 22nd, 2001, judgment was entered in this court
in favor of the plaintiff R & D Thiel, Inc., whose address is 2340 Newburg Road, Belvidere, Illinois 61008

and against defendant Hoffman Homes, Inc.,

whose address is 330 East Arlington Heights Road, Arlington Heights, Illinois 60005

in the amount of \$ 839,427.58.

Judge

Judge's No.

1/22/01

Atty. No.: 3128377

Name: Gary W. Leydig

Atty. for: Plaintiff(s)

Address: 55 East Monroe St., Suite 4550

City/Zip: Chicago, IL 60603

Telephone: (312) 345-1718

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

R & D THIEL, INC., an Illinois corporation,)
)
Plaintiff,)
)
v.)
)
HOFFMAN HOMES, INC., a)
Delaware corporation, and)
THC WOODLAND HILLS, INC., an)
Illinois corporation,)
)
Defendants.)

NO. 99 CH 15645

JUDGMENT ORDER

THIS CAUSE came before the court on January 16, 2001 for trial, without a jury. The court heard and read the arguments of counsel for the parties, reviewed all exhibits admitted into evidence, heard the testimony of the witnesses and evaluated the credibility of those witnesses. For the reasons stated on the record in open court on January 16, 2001, which reasons are incorporated herein by reference,

THE COURT FINDS:

1. The Plaintiff proved, by a preponderance of the evidence, the requisite elements of its causes of action at Counts I, II and III of its Complaint;
2. The Defendants did not prove, by a preponderance of the evidence, any of their affirmative defenses asserted in defense to Counts I, II and III of the Complaint;
3. The Plaintiff is not entitled to the equitable remedy of specific performance at Count III of the Complaint, but is entitled to its remedy at law at said Count;

4. At Count I of the Complaint, the principal balance due and owing to the Plaintiff under the Installment Note dated January 23, 1992 (Plaintiff's Exhibit 2) is \$628,151. Pursuant to 815 ILCS 205/2, the Plaintiff is also entitled to pre-judgment interest, at the rate of 5% per annum from the dates payments became due under the Note through and including the date of this order. The total of such interest is \$211,276.58;

5. At Count II of the Complaint, the principal balance due and owing to the Plaintiff under the Installment Note dated January 23, 1992 (Plaintiff's Exhibit 3) is \$203,254. Pursuant to 815 ILCS 205/2, the Plaintiff is also entitled to pre-judgment interest, at the rate of 5% per annum from the dates payments became due under the Note through and including the date of this order. The total of such interest is \$68,363.78; and

6. At Count III, the Plaintiff is entitled to recover \$25,000 for the 250 shares of preferred stock (Plaintiff's Exhibit 7). The Plaintiff is also entitled to recover a cumulative dividend at the rate of 6% per annum from May 8, 1992, the date of issuance, through the date of this order, in the total amount of \$10,881.16.

THEREFORE, IT IS HEREBY ORDERED:

- A. Plaintiff is given leave, pursuant to 735 ILCS 5/2-617, to file *instanter* its amendment to Count III of its Complaint, thereby amending its prayer for relief to include a prayer for the entry of a money judgment.
- B. Judgment is entered in favor of the Plaintiff, R & D Thiel, Inc., and against the Defendant, Hoffman Homes, Inc., at Count I of the Complaint, in the amount of \$839,427.58.

- C. Judgment is entered in favor of the Plaintiff, R & D Thiel, Inc., and against the Defendant, THC Woodland Hills, Inc., at Count II of the Complaint, in the amount of \$271,617.78.
- D. Judgment is entered in favor of the Plaintiff, R & D Thiel, Inc., and against the Defendant, THC Woodland Hills, Inc., at Count III of the Complaint, in the amount of \$35,881.16.
- E. Plaintiff shall recover its costs.

ENTERED this 22nd day of January, 2001.

ENTERED

JAN 22 2001

JUDGE
THOMAS F. BURTON # 474

Prepared by:
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