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1999-09-02 09:33:36  
Cook County Recorder 27.50



IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT - LAW DIVISION

SECUNDUM ARTEM, INC., a dissolved  
Ill. Corp., f/d/b/a MARCOE PHARMACY,  
Plaintiffs,

v.

No. 92 L 15053

JOAN FUGIEL and ARLENE GARCIA,  
Defendants.

ORDER

This matter comes before the Court upon plaintiff's motion for summary judgment. Although it was not provided in the briefs there was, apparently, a complaint filed pursuant to the Uniform Fraudulent Transfer Act, 740 ILCS 160/2 et seq., which alleged that a May 10, 1991, transfer of property from JOAN FUGIEL (Fugiel) and WALTER FUGIEL, SR., to their son, WALTER FUGIEL, JR., was fraudulent as to the indebtedness owed to plaintiff.

Plaintiff filed the underlying complaint on December 3, 1992, alleging that Fugiel stole \$60,000 worth of property from 1977 through 1989 while she was an employee. Judgment was entered in plaintiff's favor on July 1, 1997.

In order to establish that a conveyance is fraudulent in law, three elements must be present; (1) there must be a transfer made for no or inadequate consideration; (2) there must be existing or contemplated indebtedness against the transferor; and (3) it must appear that the transferor did not retain sufficient property to pay his indebtedness. *People v. Anderson*, 232 Ill.App.3d 273 (3d Dist. 1992). In *Falcon v. Thomas*, 258 Ill.App.3d 900 (4th Dist. 1994) a debtor/father transferred property to his sons allegedly to reimburse them for underpayments they had received as his employees over the past several years. In analyzing this transfer the appellate court stated:

"Where the challenged transaction involves an immediate family member as a preferred creditor, defendant has the burden of showing by 'clear and satisfactory proof' a valid and subsisting debt which would be enforced and payment for which would be exacted regardless of the debtor's fortune or misfortune." p. 910.

Fugiel argues that plaintiff has failed to carry its burden on each of the elements it must establish to merit summary judgment. As to the element of

Handwritten notes: SHARON G. KORNZ DE, 150 N. WACKER DR, CHICAGO IL 60606



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inadequate consideration plaintiff has met its burden. A statement on the deed that the transfer is tax exempt because of little or no consideration is an important consideration for the court. *See; Falcon v. Thomas*. Fugiel offers nothing to rebut this point.

Fugiel argues that the second element is not met because suit was not filed until after she transferred the property. Fugiel agreed in writing on September 13, 1989, to reimburse plaintiff for the property she had stolen. An existing indebtedness existed at the time the transfer occurred.

Lastly, Fugiel's answers to interrogatories show that she did not retain sufficient property to pay her indebtedness. As mentioned in the previous paragraph, contrary to Fugiel's position she was indebted to plaintiff at the time of the transfer.

Accordingly, plaintiff's motion for summary judgment is granted and the transfer of 3041 N. New England, Chicago, Il., on May 10, 1991, from JOAN FUGIEL and WALTER FUGIEL, SR., to WALTER FUGIEL, JR., is set aside and held for naught.

JUDGE THOMAS P. QUINN

AUG 31 1999

Circuit Court-238

\_\_\_\_\_  
Judge Thomas P. Quinn

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SEP 11 1999

ATTACHED IS Exhibit A, the nullified deed, which shows legal description + P/N & the legal description

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Property of Cook County Clerk's Office

HEREBY CERTIFY THE ABOVE TO BE CORRECT  
DATE SEP 01 1999

*Aurilia Pacuski*  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

THIS ORDER IS THE COMMAND OF THE CIRCUIT COURT AND VIOLATION THEREOF IS SUBJECT TO THE PENALTY OF THE LAW.

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Walter J. Fugiel, Jr.  
 2652 N. Scott St.  
 Franklin Park, IL 60131

Walter J. Fugiel, Jr.  
 2652 N. Scott St.  
 Franklin Park, IL 60131

EXHIBIT A

(commission expires) 10-11-11  
 dated 10-11-11

(Given under my hand and official seal, this instrument was prepared by W.J. Fugiel, 2652 N. Scott, Franklin Park, IL 60131

personally known to me to be the same person as whose name is subscribed to the foregoing instrument, signed and delivered the said instrument, and acknowledged that they signed, sealed and delivered the said instrument as they intended and voluntarily act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

**OFFICIAL SEAL**  
 PAUCAL FUGIEL  
 IL COMMISSION EXPIRES 10-11-11

Walter J. Fugiel and Joan Fugiel  
 State of Illinois, County of Cook  
 in County, in the State of Illinois, DO HEREBY CERTIFY that

PRESENTER: Walter J. Fugiel  
 DATE NUMBER: 1005  
 DAY: 10/11/11

Address of Real Estate: 1011 N. New England, Chicago, IL 60634  
 Permanent Real Estate Index Number(s): 13-20-116-003

hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of the State of Illinois

696373866  
 91228487

The north 30 feet of the south 60 feet of Lot 74 in Mont Clare Gardens, Subdivision of the East Half of the North West quarter of Section 30, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

all the set in the following described Real Estate situated in the County of Cook, Illinois, to wit:

THE GRANLORS  
 Walter J. Fugiel and  
 Joan Fugiel

of the City of Chicago, County of Cook, State of Illinois, for the consideration of Ten and 00/100 (10.00) DOLLARS, and other good & valuable consideration paid, to

Walter J. Fugiel, Jr.  
 2652 N. Scott  
 Franklin Park, IL 60131

Property of Cook County Clerk's Office

EXP. NUMBER/FINAL EXPIRES: TAX AND STAMP PER  
 & Cook County Ord. 98504 PER

Date: 10-11-11

PAUCAL FUGIEL, CLERK OF COOK COUNTY