(SEAL)

COMMONWEALTH OF MASSACHUSETTS

LAND COURT

DEPARTMENT OF THE TRIAL COURT

SUFFOLK, ss.

MISCELLANEOUS CASE
NO. 310562 (CWT)

DORIS A. HOBSON,

Plaintiff

v.

GREGORY HOBSON, JR., DECISION ONE MORTGAGE COMPANY, LLC, and JANE SILVER, as TRUSTEE of HALLMARC NOMINEE TRUST,

Defendants

**DECISION**

This case was commenced by Doris A. Hobson (the "plaintiff") on June 23, 2005 upon the filing of a verified complaint in equity seeking to set aside an allegedly forged deed to the property at 10 Woodville Park, Roxbury, Massachusetts (the "property"), which she claims was effectuated by her son, defendant Gregory Hobson, Jr. ("Mr. Hobson"), and to declare null and void all mortgages on the property. In her complaint, the plaintiff prays that the court enter judgments (1) declaring that the 1995 deed, which puts title to the property in the name of Mr. Hobson, is null and void as a forgery and that the plaintiff is the rightful owner of the property; (2) requiring Mr. Hobson to execute a confirmatory deed conveying the property back to the plaintiff; (3) requiring Decision One Mortgage Company, LLC ("Decision One"), Jane Silver as

Trustee of the Hallmarc Nominee Trust ("Hallmarc") and Mortgage Electronic Registration Systems, Inc. ("MERS") (collectively, along with Mr. Hobson, "defendants") to discharge any and all mortgages on the property; and (4) awarding plaintiff her attorneys' fees and costs.

Plaintiff, along with her husband Gregory Hobson, Sr., took title to the Property in 1977. Plaintiff and her husband divorced in 1981 and, as part of the division of assets determined during divorce proceedings, the property was conveyed to the plaintiff as sole owner. Plaintiff resided at the property until approximately 1995, at which time she moved to another dwelling until 2000, when she returned to reside at the property. She alleges in her Complaint that in December 1995, Mr. Hobson forged a deed that purported to convey the property from the plaintiff to himself for nominal consideration in the amount of $1.00 and in consideration of his assumption of tax, water and sewer liabilities. Mr. Hobson subsequently executed two mortgages secured by the property totaling approximately $178,000, one of which is currently being foreclosed. On May 31, 2005, defendant served plaintiff, who had returned to the property with her nine-year-old grandson,[1] with a notice to quit the property. Plaintiff then filed the current action on June 23, 2005. Also on June 23, 2005, a Memorandum of Lis Pendens affecting the property was recorded in the Suffolk County Registry of Deeds.

Following the commencement of this action and prior to the case being tried before the court (Trombly, J.), numerous pleadings were filed, resulting in several court appearances, briefly summarized by the court as follows: On June 29, 2005, pursuant to plaintiff's request for a preliminary injunction, this court issued an order enjoining the defendant from initiating eviction proceedings against the plaintiff and her grandson until the present action was resolved. A temporary restraining order was issued the following day. Over the next several months, a myriad of answers and counterclaims were filed by the parties. These filings included an

[1] Plaintiff's grandson, Malik Hobson, is not the son of defendant Gregory Hobson.

Answer and Counterclaim of Defendant Decision One on August 4, 2005, plaintiff's Reply to Decision One's Counterclaim on August 23, 2005, Defendant Hobson's Answer and Counterclaim, filed on August 30, 2005, Answer and Counterclaim of Defendant Hallmarc, filed on August 31, 2005, and plaintiff's Reply to Hallmarc's Counterclaim, filed on September 7, 2005. Plaintiff filed a Reply to Mr. Hobson's Counterclaim on September 12, 2005.

On October 11, 2005, plaintiff filed an amended complaint naming MERS, as nominee for Decision One (hereinafter "Decision One/MERS"), as an additional defendant. Subsequently, on December 29, 2005, MERS filed an Answer and Counterclaim and plaintiff filed a Reply on January 10, 2006. After several case management conferences were held and the court issued a temporary restraining order enjoining Decision One/MERS from initiating or continuing with foreclosure proceedings on the property, the parties appeared before the court for a pre-trial conference on September 25, 2006.

Three days of trial were held on November 1, 2006, January 19, 2007 and January 22, 2007. Testifying were the plaintiff, Dolores Pullen, Patricia Bonner, Louise Hannah, Mr. Hobson, William August, Esq., John Ruby, Esq., and Richard Fraser, M.D., who was offered as a handwriting expert. Exhibits 1 through 65 were admitted into evidence and Chalks A-J were marked for identification by the court. All are incorporated into this Decision for the purpose of any appeal. On April 19, 2007, the court allowed Defendants' Emergency Motion for Evidentiary Rulings, agreeing to rule based on redacted deposition transcripts of April Washington and Greer Spatz. Both parties filed post-trial briefs on April 23, 2007.

All testimony was reported. Based on the testimony, the evidence submitted at trial, and the reasonable inferences drawn therefrom, I find the following material facts:

1. The plaintiff and her husband, Gregory Hobson, Sr., now deceased, took title to the

property in question on July 7, 1977 as husband and wife, joint tenants, from Mr. Hobson Sr.'s grandparents, LeRoy and Catherine Weng, by a deed recorded at the Suffolk County Registry of Deeds, Book 8967, Page 188.[2] The plaintiff has lived in the property continuously since 1977, with the exception of a period during the 1990's. She currently resides there with her eleven year old grandson and ward, Malik Hobson.

2. The plaintiff and Gregory Hobson, Sr. divorced in 1981. As part of the division of the marital estate, the property was conveyed to the plaintiff as sole owner by a deed dated April 7, 1981 and recorded at Book 9844, Page 257. Gregory Hobson, Sr. died in 1990.

3. On or about May 29, 1985, plaintiff executed a mortgage on the property to Resource Equity Inc. for $12,000.00. This debt was paid off on April 30, 1986, when the plaintiff's friend, Herman B. Powell, wrote a check to Resource Equity, Inc. in the amount of $12,000.00 on behalf of the plaintiff.

4. On or about October 6, 1986, the City of Boston recorded an Instrument of Taking relative to the property for unpaid taxes, and on March 9, 1989, a Complaint to Foreclose Rights of Redemption was filed in the Land Court.[3] Subsequently, an Instrument of Tax Title Redemption, dated September 8, 1992, was recorded at Book 17751, Page 324 and a notice certifying withdrawal of the foreclosure complaint, dated August 28, 1992, was recorded at Book 17845, Page 338.

5. On or about December 1, 1993, the City of Boston recorded another Instrument of Taking relative to the property for unpaid taxes. On or about February 28, 1995, the

[2] All references to recorded instruments or plans refer to instruments or plans recorded at the Suffolk County Registry of Deeds unless otherwise indicated.
[3] Tax Lien Case No. 85188

City filed a second petition in the Massachusetts Land Court[4] to foreclose under its tax lien.

6. On or about December 4, 1995, Attorney William August sent a letter to Philip Lundberg at the City of Boston Law Department, enclosing $2,000.00 paid by Gregory Hobson, Jr. on behalf of Doris Hobson in connection with the back taxes owed on the property as well as an answer to the aforementioned Land Court action. The letter further stated that "Doris A. Hobson agrees to pay $2,000.00 herewith plus $500.00 monthly until the balance of $6,600.00 is paid..." (emphasis added).

7. On or about December 15, 1995, Mr. Hobson took title to the property by a deed (the "1995 Deed"), allegedly signed by the plaintiff and purporting to convey her interest in the property to him for $1.00 and in consideration of his assumption of tax, water and sewer liabilities on the property, including $4,000.00 for real estate taxes paid. Said deed was recorded on February 16, 1996 at Book 20358, Page 051. Total consideration equaled $12,234.00.

8. On or about September 30, 1996 the Boston Water and Sewer Commission filed an Instrument of Taking on the property due to non-payment of water and sewer charges, totaling $2,309.78.

9. On or about February 26, 1996, in a letter from Attorney William August to Philip Lundberg, August set forth a repayment proposal on behalf of Gregory Hobson, Jr. relative to the property, stating that Mr. Hobson would pay $1,000.00 up front for the back taxes and $300.00 per month thereafter until the balance was paid off.

10. In the mid 1990's, plaintiff had ceased to reside at the property, allegedly due to drug activities in the neighborhood as well as at the property. The plaintiff continued to

[4] Tax Lien Case No. 104637

receive all of her mail at the property. She took up residence at the property again in approximately 2000.

11. Mr. Hobson was incarcerated for approximately three years, from 1997 to 2000.

12. In 2002, Mr. Hobson granted a mortgage on the property to Decision One/MERS for $148,000, said mortgage being dated June 7, 2002 and recorded at Book 28694, Page 016.

13. On or about January 6, 2004, the plaintiff filed a criminal complaint against Mr. Hobson in Roxbury District Court, No. 0402CR000924, concerning the 1995 transfer in which he became sole owner of the property. In the two-count complaint, plaintiff alleged larceny by scheme and larceny over $250.00, but did not allege forgery. This complaint was dismissed without prejudice on March 19, 2004.

14. On or about April 26, 2005, Mr. Hobson executed another mortgage on the property in the amount of $30,000 to Jane Silver, as trustee of the Hallmarc Nominee Trust, recorded at Book 36944, Page 118.

15. On or about June 23, 2005, a Memorandum of Lis Pendens affecting the property was approved by this Court and recorded in the Suffolk County Registry of Deeds in Book 37371, Page 46.

16. On or about June 29, 2005, this court issued a preliminary injunction, preventing Mr. Hobson from evicting the plaintiff and her grandson from the property until the rightful owner is determined.

17. On or about August 10, 2006, the plaintiff learned from Countrywide Mortgage ("Countrywide"), the purported holder of the first mortgage originally granted to Decision One, that it intended to initiate a foreclosure of that mortgage through

MERS. On or about August 22, 2006, plaintiff's counsel received notice from MERS that a foreclosure sale was scheduled for September 13, 2006.

18. On or about September 11, 2006, this court, pursuant to plaintiff's motion for a preliminary injunction, enjoined MERS from foreclosing on the property until further order of the court.

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In this action, plaintiff requests a ruling by the court that the signature on the 1995 Deed to the property at issue is a forgery and that the 1995 Deed and the mortgages on the property held by Decision One/MERS and Hallmarc are null and void. Defendants, on the other hand, argue that while the plaintiff may not have intended to place title in Mr. Hobson's name alone, she is the author of the signature that appears on the 1995 Deed and therefore the mortgages granted by Mr. Hobson may not be declared null and void because Decision One/MERS and Hallmarc, as mortgagees, are bona fide purchasers for value.

Discussion

There are many inconsistencies in the testimony of the various parties and witnesses regarding the 1995 Deed which is the genesis of this litigation. Plaintiff states on some points that the deed was forged and that it does not contain her signature. She contends that she agreed to joint ownership of the property with Mr. Hobson in exchange for his promise to pay back taxes on the property, but that she never discussed the possibility of deeding the property to Mr. Hobson as sole owner. While she admits to signing two half-size pieces of paper that she believed memorialized her agreement for joint ownership with Mr. Hobson, she testified that she is certain that she did not sign the 1995 Deed. She testified that the first piece of paper that Mr. Hobson had her sign contained the letter head "Epstein and August" and that subsequent to

signing the first document, Mr. Hobson had her sign a second document, explaining that Attorney August "wasn't satisfied." She admits that she did not take the time to read anything that appeared on this second document.

At other times, however, plaintiff avers that it is, indeed, her signature but that she believed she was signing a document that would put title in both her and Mr. Hobson. For instance, when shown the signature on the 1995 Deed at trial, plaintiff responded that "it looks like my signature" and "it could very well be my signature." Plaintiff's testimony is inconsistent with that of her own sister, Louise Hannah, who testified that the plaintiff told her that she had signed a paper adding Mr. Hobson's name to the deed because of all the work he had done on the property and the taxes he had paid. Ms. Hannah further stated that the plaintiff told her that she didn't check to see if her name was still on the deed because she assumed it was.

Indeed, it is undisputed that Mr. Hobson made substantial renovations to the property, a fact that the plaintiff herself admitted and which was corroborated by Attorney John Ruby's testimony that when he saw the interior of the property in the early 1990's, it was completely gutted. In addition, an appraisal attached to the loan origination filed for the 2002 Decision One/MERS mortgage states that the property "has been completely renovated." It is also undisputed that Mr. Hobson assisted in paying taxes on the property. In fact, Mr. Hobson testified that he told his mother "if I'm going to take on all these bills and responsibilities, the house is going to be in my name."

Attorney Greer Spatz, Assistant District Attorney in the Roxbury District Court, interviewed the plaintiff in connection with the Criminal Complaint[5] that she brought against Mr. Hobson in 2004. Attorney Spatz testified in her deposition that the plaintiff told her that she had signed something, which she believed may have been a power of attorney. This, however, is

[5] Criminal Complaint No. 0402CR000924. This complaint was eventually dismissed without prejudice.

inconsistent with the plaintiff's testimony at trial that by signing the document brought to her by Mr. Hobson, she believed she was putting Mr. Hobson on the deed along with herself.

There is also an issue about where, and by whom, the 1995 Deed was "notarized." Indeed, there is a question concerning whether the person who took the acknowledgment of the signer actually witnessed the instrument being signed. Patricia Bonner, Mr. Hobson's cousin and the plaintiff's niece, testified that Mr. Hobson came to her while she was working at the Registry of Motor Vehicles ("RMV") in Boston and asked that she notarize the plaintiff's signature on a document, which she testified was "like a little notebook paper" and was not the 1995 Deed. In fact, she stated that she never saw the 1995 Deed until approximately 2004. At odds with her testimony, however, is the testimony of Mr. Hobson, who stated at trial that he brought the 1995 Deed to Ms. Bonner, who then brought it to Dolores Pullen who ultimately notarized it. Ms. Bonner's testimony is also contrary to that of Attorney August, who testified that the only document he drafted for the plaintiff to sign was the 1995 Deed.

The events surrounding the signing and notarization of the 1995 Deed take yet another turn with the testimony of Dolores Pullen, also an employee at the RMV in Boston, who testified that fellow employee April Washington, an acquaintance of Mr. Hobson, came to her at the RMV accompanied by an unknown woman, identified as Ms. Washington's aunt, and asked Ms. Pullen to notarize the alleged signature of this woman on the 1995 Deed. Ms. Pullen testified that she failed to ask the unknown woman for identification and proceeded to notarize the signature after the woman executed the 1995 Deed. Ms. Pullen stated at trial that she is "positive" that the woman who signed the 1995 Deed in her presence was not the plaintiff. Attorney Spatz, however, testified in her deposition that Ms. Pullen told her that she could not remember if the unidentified woman signed the deed in front of her or whether the document was

already signed.[6] In her deposition, April Washington denies ever being involved in such a transaction and claims that she never asked Ms. Pullen to notarize a signature. Ms. Washington failed to appear at trial to testify. In addition, neither Ms. Bonner nor Ms. Pullen, after becoming aware of the forgery claim, attempted to contact Ms. Washington. Ms. Bonner, however, alleges that after learning about the forgery claim, she contacted Ms. Pullen in order to provide her with the plaintiff's phone number.

In sum, defendants urge the court to discredit the testimony of the plaintiff, Ms. Bonner and Ms. Pullen as a contrived story attempting to explain Ms. Pullen's notarization of the 1995 Deed and to add credibility to the plaintiff's own conflicting testimony that the signature "could very well be my signature" but that she didn't "know how it got on this paper." These statements by the plaintiff, they contend, contradict all allegations that the signature was forged. Defendants also rely heavily on the testimony of Richard Frasier, M.D. ("Dr. Frasier"), whom they offered as a handwriting expert at trial and who testified that the signature appearing on the 1995 Deed is not a forgery.

Defendants also argue that the plaintiff abandoned the property when she ceased to reside there in the early 1990's and neglected to pay taxes. They contend that the current action is merely an attempt by the plaintiff to claim a substantial windfall by obtaining title to a newly renovated property, free and clear of any mortgages. Finally, defendants contend that the plaintiff should be barred from claiming title to the property free and clear of any mortgages because of the doctrine of laches. In support, they aver that the plaintiff became aware that Mr. Hobson was the sole owner of the property in approximately 1997, but failed to bring a criminal complaint until 2004, nearly seven years later, at which time she allowed it to be dismissed. She

[6] While plaintiff objects to the admittance of this portion of Attorney Spatz's deposition, the court will admit it not for the truth of the matter asserted but to show an inconsistency in Ms. Pullen's testimony.

did not bring this action and obtain a lis pendens until eight years after becoming aware of the alleged forgery.

The plaintiff, on the other hand, urges the court to credit her testimony that she never discussed with Mr. Hobson the possibility of deeding the property to him as sole owner, and that she did not sign an instrument memorializing such an agreement. Ms. Hannah's testimony supports plaintiff's assertion that it was always her intention to add Mr. Hobson to the deed, and that she had signed documents that did just this. In support of her forgery claim, plaintiff relies heavily on Ms. Pullen's testimony that she witnessed a woman other than the plaintiff sign the 1995 Deed.

Plaintiff contends that Mr. Hobson's contradictory testimony should be discredited due to his extensive criminal record and his previous attempts to defraud his mother when he wrote checks from her bank account without her permission. The plaintiff points to numerous weaknesses in Mr. Hobson's testimony, such as his failure to recall any details about the alleged signing of the first deed, including where it was allegedly signed or what happened to it upon the alleged signing of the second deed.[7] She paints Mr. Hobson as a manipulative son who used the property to achieve his own ends by giving two mortgages on it in exchange for $178,000.00. She also argues that Dr. Frasier's testimony should be accorded no weight by the court because of his lack of training, experience, and certifications normally required of a handwriting expert.

**Forgery**

Any mortgage procured by presentation of a forged deed is null and void. Whittenberger

[7] According to the testimony of Mr. Hobson and Attorney August, Attorney August drafted a deed placing title to the property solely in the name of Mr. Hobson so that he would be able to file an answer in the tax foreclosure case in the name of Mr. Hobson. August testified that on or about December 4, 1995, he provided Mr. Hobson with this deed, to be signed by the plaintiff. He stated that he subsequently found a title reference problem on the deed, which he fixed, sending an updated version of the deed, identical to the prior deed save the updated title reference, to Mr. Hobson, on or about December 5, 1995.

v. Commercial Credit Corporation, 37 Mass. App. Ct. 303, 305 (1994) (holding as between a good faith mortgagee or purchaser and the innocent owner of the certificate, the statute mandates the owner be protected); see also G.L. c. 185, § 62. A notary certificate on a deed is proof presumptive of a valid acknowledgement, unless there is evidence that rebuts or impeaches the notary's testimony. Keville v. McKeever, 42 Mass. App. Ct. 140, 157 (1997). "The legal presumption of official duty by a public officer requires that this effect should be given it." Iantosca v. Iantosca, 324 Mass. 316, 321-322 (1949). "There would be little security in conveyances of real estate if a certificate of acknowledgment could be set at naught by such evidence...years later." Hale v. Hale, 332 Mass. 329, 334 (1955). People familiar with the real signature of the person whose signature is in question are competent to render an opinion as to the authenticity of the disputed signature. Commonwealth v. Ryan, 355 Mass. 768, 770-71 (1969), citing Noyes v. Noyes, 224 Mass. 125, 130 (1916); Ryan v. United States, 384 F.2d 379, 380 (1st Cir. 1967).

Whether or not the signature on the 1995 Deed from the plaintiff to Mr. Hobson is a forgery affects all defendants' interests in the property because bona fide purchasers for value are not protected in the case of a forged deed. The Appeals Court addressed the reasoning behind this logic in Whittenberger, 37 Mass. App. Ct. at 305. In Whittenberger, the Plaintiff purchased a parcel of registered land in Weston in 1946 with his wife. In 1992, the Plaintiff learned that a foreclosure sale on the premises had been advertised by the defendant mortgage company. Upon completion of a title search, the Plaintiff discovered a deed dated April 18, 1990 purporting to transfer the premises from himself to his son, Peter, and a mortgage which Peter had granted to a finance company. The parties agreed that the deed was a forgery. A Land Court judge allowed the Plaintiff's motion for summary judgment, holding that the mortgage held by the Defendant

was null and void under G.L. c. 185, § 62, and this decision was affirmed by the Appeals Court.

Unlike Whittenberger, the parties in this case have not agreed that the deed in question contains a forged signature. If, however, the court finds that the signature is a forgery, it is undisputed that defendants Decision One, MERS and Hallmarc would no longer have a claim to the property, and their mortgages would be deemed null and void.

A notary certificate on a deed is proof presumptive of a valid acknowledgement. Keville, 42 Mass. App. Ct. at 157; Iantosca, 324 Mass. at 321-322; Hale, 332 Mass. at 334. In Hale, the parties were husband and wife and became owners as tenants by the entirety of a parcel of real estate in Newton on February 3, 1940. On June 5, 1940, the wife executed a quitclaim deed to the husband by which she conveyed to him "all . . . [her] right, title and interest" in the property. The instrument contained what purported to be a proper acknowledgment dated June 5, 1940, and it was recorded on that day. The parties were divorced in 1951. The wife then sought a partition of the property on the grounds that the deed was ineffective to convey her portion of the tenancy by the entirety. She claimed that the deed did not contain an effective signature and testified that she did not remember appearing before a notary and acknowledging the deed. The husband presented evidence that while he was not sure whether the wife signed the deed at home or at his office, he recalls that he took it to the registry for recording immediately after it was signed.

The court found that the deed was valid. The most persuasive evidence to that end was that the deed contained a certificate of acknowledgment by a notary public to the effect that the wife appeared before her on June 5, 1940, and acknowledged the instrument to be her free act and deed. The court held that none of the other evidence presented was enough to rebut the presumption or inference of regularity raised by the certificate, even though some basic facts

about the circumstances of the signature were foggy.

In the present action, the key witnesses who testified at trial, namely the plaintiff and Mr. Hobson, had inconsistencies in their testimonies and questionable credibility for various reasons. Nearly all of the other witnesses had contradictory versions of events surrounding the signing of the 1995 Deed. Absent convincing documentary evidence that the 1995 Deed was forged, the court is left to rely primarily on the testimonial evidence presented at trial and is faced with the difficult task of weighing one witness's credibility against that of another.

The court relies heavily on the plaintiff's own testimony that the signature on the 1995 deed "could very well be my signature." In addition, the plaintiff readily admitted to signing two pieces of paper brought to her at two separate times by Mr. Hobson, both of which were on what she characterized as a "half size" piece of paper. She testified that she believed the first document's purpose was to add Mr. Hobson to the deed and that it appeared on "Epstein and August" letterhead. She admits, however, that she did not read it carefully "because Gregory's my child." She testified that Mr. Hobson brought her a second document to sign, explaining that "August wasn't satisfied with the first papers," and that she signed this document without reading it. The court questions the credibility of this testimony for several reasons.

First, at the time the plaintiff allegedly signed these documents, "Epstein and August" was not in existence and the letterhead at that time would have read "Horton and August."[8] The court understands, however, that this could be an honest mistake given the fact that the firm name did change and the plaintiff may have heard about "Horton and August" at great length prior to trial. Second, the court credits the testimony of Attorney August that he does not recall drafting any legal documents on a half-size piece of paper and that the only deeds he drafted

[8] At the time Attorney August drafted the 1995 Deed, the name of his firm was "Horton and August, P.C." It was not until late 1999 or 2000 that "Epstein and August" came into existence.

concerning the property placed title solely in Mr. Hobson's name. He testified that he gave this deed to Mr. Hobson on December 4, 1995 for the plaintiff to sign, and then sent him a second, nearly identical deed on December 5, 1999, having fixed an incorrect title reference that appeared in the first deed. This testimony corroborates that of the plaintiff, who testified that Mr. Hobson brought her a second piece of paper after she had signed the first, stating "August wasn't satisfied with the first papers." Ms. Hannah, the plaintiff's sister, also testified that the plaintiff told her that "she signed the paper for the deed, adding Greg to the deed."

It is clear to the court, therefore, based mainly on the plaintiff's own testimony, but also on the testimony of Mr. Hobson, Attorney August, and Ms. Hannah, that the plaintiff did indeed sign a deed. While the plaintiff is adamant that she never signed the 1995 Deed transferring sole ownership of the property to Mr. Hobson, she readily admits that she never carefully read the two instruments that Mr. Hobson asked her to sign. Her blind trust in her son is also evidenced by Attorney August's testimony that when he spoke to the plaintiff on the phone, she told him to "do whatever Greg wants you to do." Based on the testimony and evidence presented at trial, the court is convinced that she did indeed sign the 1995 Deed placing the property solely in the name of Mr. Hobson, even though she may not have understood the actual contents of the deed.

Plaintiff's theory that a stranger, posing as Ms. Hobson, accompanied Ms. Washington to the RMV to sign the 1995 Deed is also unconvincing to the court. The testimony of both Ms. Bonner and Ms. Pullen are wrought with inconsistencies when compared to the testimonies of other witnesses. For instance, Ms. Bonner claims that she notarized a document "like a little notebook paper" while Ms. Pullen testified that she notarized the 1995 Deed after it was signed by an unidentified stranger. Mr. Hobson, on the other hand, testified that he brought the 1995 Deed with the plaintiff's signature to Ms. Bonner and that Ms. Bonner took the deed out of his

sight and returned with it notarized by Ms. Pullen. The evidence does not support the existence of a document other than the 1995 Deed, which Ms. Bonner claims to have notarized. Not only was such a document not produced at trial, but Mr. Hobson would have no reason to have such a document notarized. Furthermore, Attorney August testified that the only documents he drafted were the 1995 Deeds. Additionally, Ms. Pullen's testimony that an unidentified stranger signed the deed is weakened by the fact that the plaintiff herself admitted that the signature looks like her own.

As for the authenticity of the signature on the 1995 Deed, "[a] witness who is familiar with a person's handwriting may give an opinion as to whether the specimen in question was written by that person." Noyes, 224 Mass. at 130. A witness who has seen someone's handwriting only once ordinarily would not be qualified to give an opinion. Id. at 125. Whether a witness is qualified to give such an opinion is a question, in the first instance, for the judge. Nunes v. Perry, 113 Mass. 274, 276 (1873). In the present action, the plaintiff, Mr. Hobson, and Ms. Bonner, the plaintiff's aunt, all persons familiar with the plaintiff's signature, testified that the signature appearing on the 1995 Deed looked like the plaintiff's genuine signature. Although these witnesses are not "experts" in handwriting analysis, they are familiar with the plaintiff's signature and thus the court credits their testimony. The plaintiff offers the theory that her signature was artificially transferred onto the 1995 Deed from another piece of paper. This theory cannot be credited by the court because the plaintiff failed to offer evidence in support of it. While defendants offered Dr. Fraser as their handwriting expert, the court does not credit his testimony due to his questionable training and lack of memberships in and certifications by reputable associations, normally standard for a person purporting to be a handwriting expert.

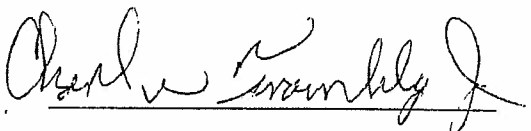
The court admits that the facts surrounding the notarization of the deed remain foggy, with conflicting testimony as to what was notarized and by whom it was notarized. However, in light of the basic rule that the presence of the notary certificate on a deed makes the deed presumptively valid, and in the absence of convincing evidence to the contrary, the court finds that the signature in question on the 1995 Deed is the plaintiff's genuine signature, and there is no forgery. Accordingly, the interests in the property held by Decision One, MERS, and Hallmarc are valid due to their status as bona fide mortgagees.

The court will not delve into whether the plaintiff was induced to sign her name to the 1995 Deed by means of fraud or undue influence because such a claim is not alleged in the plaintiff's amended complaint.

Conclusion

On all the evidence, and after carefully weighing the credibility of each witness who testified at trial, I conclude that the plaintiff's signature on the 1995 Deed conveying the property to Mr. Hobson is not a forgery. Regardless of whether the plaintiff may have misunderstood the contents of the 1995 Deed, defendants Decision One, MERS and Hallmarc, as good faith mortgagees, possess valid mortgages on the property because I find that plaintiff's signature on the 1995 Deed was not forged.

Judgment to enter accordingly



Charles W. Trombly, Jr.
Justice

Dated: February 26, 2008