IN THE COURT OF APPEALS OF TENNESSEE AT NASHVILLE

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DONALD SWEENEY and VICKIE SWEENEY MOULTON,

Plaintiffs/Appellees,

VS.

June 4, 1999

FILED

Cecil Crowson, Jr. Appellate Court Clerk

Appeal No. 01-A-01-9807-CH-00387

Cheatham Chancery No. 9031

ERIC ERWIN,

Defendant/Appellant.

APPEALED FROM THE CHANCERY COURT OF CHEATHAM COUNTY AT ASHLAND CITY, TENNESSEE

THE HONORABLE ALLEN W. WALLACE, CHANCELLOR

ROBERT L. PERRY, JR. 102 Frey Street Ashland City, Tennessee 37015 Attorney for Plaintiffs/Appellees

LAURA TEK 1994 N. Gallatin Road, Suite 315 Madison, Tennessee 37115 Attorney for Defendant/Appellant

AFFIRMED AND REMANDED

BEN H. CANTRELL, PRESIDING JUDGE, M.S.

CONCUR: CAIN, J. COTTRELL, J.

MEMORANDUM OPINION¹

This is an appeal from a chancery decree awarding specific performance to the purchasers of a tract of real estate and denying a counterclaim for rent. The lower court rendered the decree after a full evidentiary hearing on the merits. The appellant has not furnished this court with a transcript of the evidence heard at the trial.

The only issues raised on appeal relate to the preponderance of the evidence. Without a transcript of the evidence presented at the trial, we must conclusively presume that the facts support the chancellor's decree. *Leek v. Powell*, 884 S.W.2d 118 (Tenn. App. 1994).

We, therefore, affirm the judgment below. Remand the cause to the Chancery Court of Cheatham County for any further proceedings necessary. Tax the costs on appeal to the appellant.

> BEN H. CANTRELL, PRESIDING JUDGE, M.S.

CONCUR:

WILLIAM B. CAIN, JUDGE

PATRICIA J. COTTRELL, JUDGE

¹Rule 10(b) of the Rules of the Court of Appeals reads as follows:

The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.