1785-003
Southampton County

Chancery Papers: Johnson & Wf vs Barrett's ptors

7/1785

other surnames: Mackie, Joyner, Minard, Laurence, Mackey

To the worshipful justices of Southampton county sitting
in chancery

Humbly complaining shew unto your worships your oratrix
Stephen Johnson & Elizabeth his wife. That your oratrix's father John
Mackie late of this county sometimes about the year 17 entered into
an agreement with one John Joyner of the said county for the purchase
a certain tract or parcel of land containing
res situate in the aforesaid county for the consideration of
the said land & the said Joyner was then seized in fee simple
consideration of which said agreement was made in part of the con
Joyner paid the sum of
money & the said Joyner then delivered & the said Mackie took
quiet possession of the said lands & occupied the same until the
of his death which happened about that the
John Mackie dying intestate & before any deeds were executed
for conveying the fee simple of the said lands, the said Joyner
as a creditor obtained letters of administration on the estate of
the said Mackie & by virtue thereof sold all the personal estate
of the said decedent & retained in his own hands the sum of
the greatest part thereof under pretence
the balance of
made
the agreement aforesaid as will appear by his account
of the said estate which is recorded in the court of this county to
which your orators refer. Your orators further shew that
the said John Mackie left a widow who was sister to the
Joyner & Joseph Mackie his eldest son & their at law & your orators
her daughter, that frequent applications were made to the said
John Joyner in the infancy of the said Joseph Mackie to convey
the said lands to him as the heir at law of the said John Mackie
ited & to whom both in law & equity the same descended &
Your orators allege by the artful insinuations of one
Barrett whose future views therein were more manifest &
by an unparalelled piece of fraud & injustice he the said John
John Joyner conveyed the said land absolutely to the said
Mary Joyner his sister, with whom the said William Barrett
soon after intermarried, & soon after such marriage
in pursuance of their fraud & injustice they the said Wil
Barrett &
his wife both of whom your orators allege
were privy to & well acquainted with the several circumstance

Sept 1784
Comm'd &

Barrett's exor

Johnson & wife

Sept 1783 Cont'd for
Answer
40th Sept.

Apl Term him to Ans
Injunc Ans. filed & Rule
Dissd
June 1783 Cont'd for
Action
July Rule Retired

March 1785
Comm'd
Dismissed

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302	302

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NOT DEACIDIFIED 1/28/92

respecting the Lands as above set forth joined in a conveyance
sold the said Lands for the sum of
to one Thomas Langford who is now dead, by which combination
& contrivance of the said Will Barrett the Original intentions
of the said John Mackie the father hath been prevented, & his
Children thereby deprived, not only of the money arising from
the Sales of the personal estate, but of the Lands also for which
the same was sold, They further shew to your worships that
the said Joseph Mackie the son hath departed this life with
issue leaving your Orator Elizabeth his only sister & heir at
& the only surviving representative of the said John Mackie
the father, that the said William Barrett the widow
this world has also departed
this life leaving William Barrett his son, to whom as well
as to the said testor many friendly applications have been
made by your Orators respecting the fraud iniquity &
injustice of the proceedings aforesaid relative to the Lands aforesaid
& requested the said Barrett the testor in his life to refund the
money received for the Lands aforesaid as the same ought in
conscience considered as received in trust for
heir of the said John Mackie. But now so it is May it please
your worships that the said Barrett in his life time & his executor
since his death refuse in any manner to render that justice to your
Orator which in all respects aforesaid ought to be done by him the said
William Barrett the testor being the only person benefited by the
Sales of the Lands afsd, All which actings & doings of the said
confederates particularly of the said William Barrett are
manifestly unjust & inequitable, & tend to the oppression
& ruin of your Orator. In tender consideration whereof & for
remedy whereas your Orator are by such fraud art & contrivance
without remedy by the strictness & rigor of the common law
the most properly reliable in this worshipful Court of equity
instituted for the detection of fraud iniquity & the protection
of infancy & innocence, To the end therefore that the said William
Barrett executor &c of William Barrett dec'd may upon his
corporal oath & all true & perfect answer make to all & singular
the allegations of this bill but more especially that he may set forth
& discover Whether there was not such agreement for the purchase
the Lands aboue mentioned, from John Joyner. Whether the said Joyner
Mackie in consequence of the payment of part of the purchase
money was not put in possession & occupied the same to the time of his
death, Whether the said Joyner did not as owner of the said premises
Mackie sell all the personal estate & retain the largest part thereof
for the balance of the purchase money as afsd. Whether the said
William Barrett did not intermarry with the widow of the said
Mackie, was the said Barrett or not privy to & acquainted
with the several Conveyances to the said Lands &
he not procure the same to be conveyed to the said
widow, Whether the said William Barrett & the
did not after their marriage sell the said Lands, to whom
& for what Sum. Did not the said William Barrett receive the money
from the said Tho Langford & apply the whole to her own use
Whether your Orator Elizabeth is not now the only surviving
Child & representative of her father & brother. And that they
worshipful court will Decree That the said William Barrett
the said testor in his Lands to be
administered
by the money received
of the said Thomas Langford with interest for the same from
time of the death of the said John Mackie and upon such
time as this Court shall direct. And that your worships will
may be
mercifully further or other decree in the premises as
agreeable to equity justice & good conscience. May it please the

Hello for Complt

Barrett & ux. / Johnson & Ux.

The answer of Wm Barrett and Rawley Barrett executors of William Barrett died to the bill of complaint exhibited against them by Stephen Johnson and Elizabeth his wife

These defendants saving to themselves all advantage of exception to the manifold untruths and imperfections in the complainants said bill of complaint for answer unto they say That they are both ignorant of any contract or agreement subsisting between the said John Mackie and John Joyner in the bill named for the purchase of the land said therein to be sold to the said Mackie by the said Joyner and they also believe the said William Barrett died was also unacquainted therewith if any did subsist neither know they any thing of the conduct of the said Jno Joyner in the taking out letters of administration on the estate of the said Mackie or of his transactions afterwards These defendants have heard & believe to be true that the said John Joyner did convey the lands to Mary Mackie whom their

testator married but they have also heard and believe to be true that the conveyance was executed many years before their intermarriage to wit in the life time of their testators first wife They further say that Mary Mackie was possessed of the said land built a dwelling house cleared fenced & improved a considerable part of it many years before their testator's intermarriage with her That they have heard and believe to be true that the said John Mackie never was possessed thereof These Defts deny all unlawful combination & pray to be hence dismissed with their costs

Johnson & wife
vs
Barnes Exr
Ch.
July 1782
Executed.
R Edwards

The Commonwealth of Virginia to the Sheriff of Southampton County greeting We Command you to Summon William Barrett & Rawleigh Barrett executors of Wm. Barrett dec'd to appear at the Court house of our said County before the Justices of the Pl. Court Sitting in Chancery on the Second Monday in August next to Answer ~~Lucas Johnson~~ a bill in Chancery exhibited against them by Simon Johnson & Elizabeth his wife & this they shall in no wise omit under the penalty of One hundred Pounds Witness Sam Kello Clerk of our said Court at the Courthouse on the twelfth day of July in the 7th Year of our independence

Sam Kello Co

Johnson
vs
Barnett Ex Pltff

The deposition of Jesse Mynard

This deponent being first
sworn upon the Evangelist of Almighty God, deposeth & sayeth
that at John Joyner's Sale, which was some days before
the D. Joyner Moved to Carolina, he the said deponent
in Company with Col. Lawrence and some others, happened
at the Sale, and heard William Barrett decd tell the said
John Joyner that he would Clear him of all damages
that might come against him on Account of John Mackey's
Estate, and further that he would give John Lawrence a
bond for the Purpose of indemnifying the said Joyner
of all damages as aforesaid; and further this deponent
sayeth Not

Jesse Mynard

The above deposition a witness in the suit depending between
Simon Johnson and his Wife Elizabeth Plaintiff against Wm
Barrett & Rawleigh Barrett Exrs of Wm Barrett decd defendants
was taken before us this 10th day of Septbr 1783

Nath[l] Hill Esq[r]

Daniel Norris Jun[r] Esq[r]

Sept 10th 1783 It was made appear to us that the defendants, Wm Barrett & Bayleigh Barrett had timely Notice of the taking the within deposition

Nath Fleming

Daniel Dunn Jun

Johnson
vs
Barrett

Sept 1783

Southampton Sc.

The Commonwealth of Virginia to Nathaniel Thompson
Daniel Dawson Jun. and Billy Day
Gentlemen greeting Know ye that we having
-sident Circumspection in diligently examin
Witness as well on behalf of Simon
Plff. as on behalf of William Barnett Rec
Exec. of William Barnett Dec. do. Command
you & every one of you that at such certain days & Places as you
shall appoint you Assemble yourselves & the Witnesses &
before you or any two or more of you You
come & diligently examine on the Holy Evang
-ely Gods their Examinations into our Court
Southampton without delay you shall send
the same also to us this Writ Witness Sam
This 10 day of July in the 8th Year of the Comm.

Sam Kello C

Nathaniel Thompson
to your Pro-
-ceedings whatsoever
Elizabeth his Wife
Leigh Barnett
you & or any
Place as you
Witnesses &
all & each to
Christ Almigh-
-ty & your County &
County Seal
Kello Clerk &c

Sam Kello C

Nathaniel Thompson
Daniel Dawson
Billy Day
Exhibited in
Court 7th Aug. 1782
Sam Kello C

Johnson
vs
Daniel
Depos

Oct 1782

Isle of Wight Oct. 19th 1802 —

The deposition of John Laurence of lawful age, being first sworn on the holy Evangelicks of Almighty God deposeth & sayeth — that being at the House of John Joyner in the County of Southampton, sometime in November 1793, in Company with the said Joyner & William Barnet also, & also with several others present, the said Joyner being about to observe to mr Barnet to move into North Carolina, he the said Joyner required of the said William Barnet to give him the bond of indemnification against any claims of the Children of John Mackey dec'd respecting a tract, parcel or dividend of Land, which he the said Joyner had sold to the said John Mackey in his lifetime, without deed being properly made for the same, but subsequent had been made by the said Joyner to the Widow or relict of the said Mackey, who afterwards intermarried with the said William Barnet dec'd, that the said William Barnet then did answer this said Deponent & the rest of the company present declare, that he was willing, & also ready, to give such bond of indemnification to the said Joyner against the claims of the said Mackey's heirs, as he the said Joyner shd approve of, which bond was intended to be drawn by this deponent, but from a neglect of it, & the said Joyners absence was not by him drawn, & further this Deponent sayeth not

John Laurence

Nathaniel Harris

Sam'l Briggs

Johnson &
v
Barnett &
Def
Poten