

1796-013

SOUTHAMPTON COUNTY
CHANCERY PAPERS

CALVERT

VS.

SMITH'S ORPHANS

8/1796

Calvert }
vs } Bill
Smith es/et al.

(84)

Novbr. 1795 interlocutory
decrees.

August 1796 report etc & decrees
accordingly

1
To the Worshippful Court of Southampton County in chancery sit-
ting, humbly complaining. Sheweth unto your Worships your orator
Samuel Calvert, that a Certain John Smith of this County was indebted
to your orator to wit, the sum of forty eight pounds five Shillings and
Three pence, with interest therein arising from the fifth day of Septem-
ber 1793, and being seized in fee of Certain lands herein after men-
tioned, in order to secure the payment of the aforesaid sum of money
and interest, by one certain Indenture bearing date the day and
year aforesaid, for the Consideration therein expressed, did, grant,
bargain sell, alien & confirm, unto your orator Samuel, and to
his heirs and assigns forever, ninety six acres of Land, lying in
the County aforesaid and adjoining the lands of your orator, to-
gether with the appurtenances thereto belonging, to hold the said
Lands to your orator Samuel his heirs and assigns forever, subject
to a proviso and in trust and Confidence nevertheless, that your
orator, on the non payment of the aforesaid sum of money and
interest on or before the 25th day of December then next ensuing
the date of the said Indenture, should seize & possess himself of
the said lands and premises, and sell and dispose of the same
for the best price that could be got, and from the money arising
from such sale satisfy and detain to himself the aforesaid sum of
money and interest, with all reasonable expences attending the same,
and the surplus (if any) to be paid to the said John Smith or to his
assigns. which deed or Indenture hath been duly recorded in the
County Court aforesaid, and which your orator craves leave to refer
to. Your orator further sheweth to the Court, that the aforesaid
sum of money and interest, or any part thereof hath not been paid
to your orator, whereby the estate and interest in the said Land and

premises, are now become absolute in your Orator, yet subject to the trust in the said deed mentioned. ^{But now so it is may it please} both parties this bill entered. ^{Leaving your Orator, Henry, Mary, Polly, Deborah who} again the Orator, that the said John Smith, Combining & confederating with divers others to injure & oppress your Orator in the premises, and to defraud him of the principal sum of money, and interest aforesaid, absolutely refused to deliver up the aforesaid lands & premises, or to suffer any purchaser to take possession thereof, by which your Orator cannot execute the deed aforesaid, and pretends that the deed aforesaid was to have no other operation but as a mortgage on the said Land, to secure the payment of the aforesaid sum of money & interest, and that ^{his are} they are still entitled to an equity of redemption of the aforesaid Land and premises, and release of your Orator's title on payment of the aforesaid sum of money and interest; ^{Intention Consideration} whereof, and for as much as matters of Trust, and the foreclosing the equity of redemption of Mortgages is in this Worshipful Court of Equity. ^{Henry, Mary, Polly, Deborah, in the name of the said John Smith} to the end therefore that the said John Smith (who your Orator prays may be made defendants to this bill of Complaint) may upon this Complaint or the full, true, & perfect answer made to all & singular the allegations in this bill contained, and that as especially as if the same were again repeated and interrogated, but especially whether the said John Smith was not indebted to your Orator in the sum of £40:5:3. and interest from the day aforesaid until payment? whether for securing the payment aforesaid. He did not execute the said deed or mortgage? whether the aforesaid sum of money, or any part thereof hath been paid? Is not the same still due and owing? and that the said John Smith may be decreed to pay and satisfy to your Orator the aforesaid sum of £40:5:3 with interest thereon from the day of payment as stipulated in the said Indenture, and all reasonable charges & expenses that have accrued to your Orator, for recording the aforesaid Indenture and other matters relating thereto, together with your Orator's costs, and in default

thereof, that the said defendants be decreed peaceably & quietly to deliver up the seisin & possession of the aforesaid Land & premises to your Orator that sale may be made thereof, agreeably to the special Trust reposed in your Orator by the proviso and Condition of the deed aforesaid, and in default thereof, that the said defendants and all persons claiming under ^{them} may be foreclosed of, and from all equity of redemption or claim in, or to the said Land & premises, and every part thereof, and the estate of your Orator in the same may become absolute therein, and that your Orator may have such other & further relief as to your Worship shall seem proper, and shall be agreeable to equity. May it please the

Your Orator for Complaint

Walvert (299)

or

(Spa
in
Chy

Smith's options

27

to Novbr. 1794.

To Summon

Dr. Smith's Options

Henry. Moore. & Mary

Polly & Susannah

Smith

Executed on them

all except Polly

No Inhabitant

Moore &c

THE Commonwealth of Virginia to the Sheriff of *Southampton*
County, greeting: You are hereby commanded to summon *Henry*
Moody, Nancy, Polly & Susannah Smith orphans of *John*
Smith deed.

to appear before the Justices of our County Court of *Southampton* at
the courthouse, on the 2nd ~~thurs~~ day of ~~in November~~ ~~court~~ next, to testify
and the truth to say on behalf of

~~in a certain matter of controversy~~
~~in our said Court depending, and undetermined between~~ to answer a bill
in chancery exhibited against them by *Samuel Calvert*

And this ~~they~~ shall in no wise omit, under the penalty of 100l. each. And
have then there this writ. Witness, *Samuel Kello* — Clerk of our
said Court, this 22nd of day of *August* 1794, in the 14th
year of our Foundation.

Jno. D. Haufmann, D.C. b
Em

Calvert

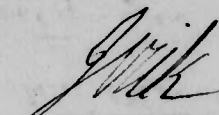
vs

Report

Smith's office

In obedience to the decree of the Court of
Southampton we have made Sale of the Land
of John Smith deceased to Samuel Calvert Gent.
for the Sum of. Fifty Five Pounds and
have made Conveyance thereof to him by deed
bearing date the . . . day of . . . 1796.
and the money arising from the Sale thereof we
have according to the directions of the Court paid
to said Samuel Calvert the mortgagee of the
said Land as will appear by his receipt
hereunto annexed. Given under our hands this

20th day of June 1796


John Bennett

Noel Waddell

Received of the 20th day 1796. of
Noel Waddell, Joseph Vick & James Bennet
the sum of **Fifty five pounds** being
in full of the money which the Land of John
Smith sen^r. was sold for by them under the
charter of the Court of Southampton.

L. B.

Sam^l Attest
