1801-043 Chancery Papers: Berryman vs Fisher's Extoes 1801

Southampton County

other surnames: Harriss, Harris

To the Justices of Southampton County Court in Chancery
sitting John Berryman humbly sheweth that sometime
on or about the day of he purchased
of Daniel Fisher gent, a tract or tracts of land in the
County aforesaid, in consideration of the sum of four hundred
pounds, for which he executed several bonds, to
be paid at different periods as reference thereto will
fully appear — that in consequence of this purchase
your Complnt was put in possession of the said lands
& premisses,
that before the time had elapsed in which your Compl^nt
possessed the privilege of making payment and of course
the right of enforcing an indefeasible title to the afs^d
lands the said Fisher departed this life, whereupon
his exors in defiance of the contract
aforesaid made sale of the s^d Lands and sold or transferred your
Complnts bonds to a certain John Harriss of Sotn County —
— your Complnt not being an opulent man, and
feeling the pressure of these circumstances, was induced
to resign the possession of the lands to the said Harriss
not entertaining the most distant idea that he
could be responsible for the enjoyment, or use of
the Lands when he had been thus maltreated by the

aforesaid exors; but this their unprecedented conduct was succeeded by an oppressive suit at law, in which (the trial being rather by surprize) some unexpected testimony suddenly appearing which your Complt could have rebutted had he supposed the common possibility of its introduction and owing to some essential documents that had been mislaid in the C. Ct. aft. — they the sd exors obtained judgment for the sum of Pounds &c = which actings, doings & proceedings your Complt charges to be unjust, inequitable and against conscience, in consideration whereof, & for as much as yr Complt is without redress except thro' yr equitable Powers, & to the end therefore that the sd exors of D. Fisher dcsd may be made defts hereto & answer on oath the allegations of this bill fully, particularly, did they not sell the Lands in manner herein stated? — had the last day of payment past as mentioned in the aft. bonds? was not the Complt entitled under contract with them & Testator to enjoy the Lands even to a later period than the date of the last bond?

That the defts & all others may be enjoined from proceeding in virtue of the judgment aft. until the controversy can be heard in Equity, and then make the injunction perpetual, or grant a new trial in the cause as to justice & conscience shall appear fit & &c. may it please the Court to grant the Comwlths Writ of injunction directed to the defts &c commanding &c

Wm Hill for Complt

Grenville Co.
April 6th 1799. This day John Bowman made oath before me to the allegations above stated — Given under my hand the day and year above written

Benjd Starke

Commonwealth of Virginia, to wit:

The joint answer of John & Edward Disher exe-
cutors of the last will & testament of Daniel
Disher dec'd. to the bill of complaint exhibited against them
by John Bergman These defendants saving & reser-
ving to themselves every benefit of exception
to the many errors, insufficiencies & untruths
contained in the said bill for answer to so
much thereof as they are advised is material
to answer, they answering say, that true it
is the land mentioned in the bill of the complt.
was purchased by him, that he gave his bonds
as therein mentioned, but that he has forgotten
to state, that provided he did not pay for the
land at the expiration of his credit that then
he should pay the sum of twelve pounds per
year as rent for the use & occupation thereof
that this was the question agitated before
the jury & that they on a full & fair in-
vestigation of the evidence on both sides
brought in a verdict in favor of your respondents

these defendants further state, that they surely had a right to transfer any bond or bonds that came lawfully into their possession and as to the compltt being rich or poor this ought not to make a distinction in the administration of justice. And therefore from a full & candid view of the wishes of the compltt as by bill is evinced, your defendants may draw this only conclusion that he the compltt would willingly enjoy the land of the defendants & never have the most distant idea of making any kind of amends therefor & this appears to have been his intention from the beginning. your defendants pray to be hence dismissed with this costs

Jno Fisher Cr. D.C.
Dand Fisher Cr. D.C. Dd
D Fisher for Defts

Greensville County Court

This day John &
Edward Fisher executors of Daniel Fisher
dec'd. personally appeared before me a magis-
trate for the county aforesaid & made oath
that the allegations contained in the within
answer are true as far as they relate to their
own knowledge & as far as they relate to the
knowledge of others they believe them to be
true. Given under my hand this 1st day
of March 1800

Jas Maxil J. P.

Fisher's ans.
Exhibit

Notice acknowledge 7th Sept. 1801. to take the affidavits of Wm. & James Fo. Fisher Co. D.C. Harris on Friday the 18th Sept.

Berryman v. Fisher & Con Ch J.

witness.

Ly Hall

Samuel Fello, Clerk

Southampton

The Affidavit of John Harris of Southampton County in a Suit in Chancery on an Injunction in the Worshipfull Court of Southampton Wherein John Berryman are Complainant & John & Edward Fisher Executors of the Daniel Fisher decd are defendants taken at the Store house of Robert Mabrys the said John Harris being of full age and first sworn on the Holy Evangelist of almighty god deposeth & saitheth that some time in the spring of the Jear 1796 This deponant Purchased of John & Daniel Fisher all their Interest in the land whereon I now live together with Mr. John Berrymans Bonds, One Payable 25th day December 1793 for one hundred Pounds one Other for the like sum Payable 25th day Decr 1794. one other for the like sum Payable 25th Decem- 1795 and one other for the like sum Payable 25th December 1796. Which Bonds was sold to this deponant as his absolute Property, and further this dep[onent] saitheth that the said Fishers told this deponant that they were the bonds the said Berryman gave to Daniel Fisher decd for the land the said Berryman purchased of the said Fisher decd and further saitheth that the twelth day of august 1796. the said Berryman made this deponant full Satisfaction for the above Bonds; and further this deponant saitheth that the said Fishers told this deponant that they did not contemplate any rent from said Berryman unless the said Berryman should fail to make Payment by 25th day December 1796. and further this deponant saitheth not.

J Harris

Sworn to before the Subscriber this 18th Day Sept. 1801.

Byrd Dunday J.P.

Samuel Bello

Clerk

Southampton

The affidavit of James Harris of Southamp-
=ton county taken in a Suit in Chancery
on an Injunction in the worshipfull court
of Southampton wherein John Berryman
are complainant & John & Edward Fisher
Executors of Daniel Fisher decd taken at
the stor house of Robt Mabrys. the
Said Harris being of full age & first
Sworn on the Holy Evangelist of almighty
god deposeth & saitheth, that in the
Spring of the Year 1796 This deponant
went with John Harris to where Col Daniel
Fisher formerly lived & that John & Daniel
Fisher did agree to sell the said John-
Harris the land whereon the said Berryman
then lived; in case the said Berryman
failed to comply with his contract with
their father; and further this deponant
saitheth that the said Fishers sold the
said Harris the Bonds which the said
=Fishers told this deponant was the bonds
given by said Berryman to Daniel Fisher decd
for the land whereon the said Berryman
then lived; and further this deponant
saitheth that the said Fishers said in his
Presence that if said Berryman comply-
=ed with his contract with their Father they
did not Expect any rent for the land
and further this deponant saitheth not

Sworn to before the
Subscriber this 18th
day Sept. 1801.
Byrd Sunday J.P.

James Harris

Southampton Sept^r Court 1798

Jn^o and Edward Parker ex^rs Dan^l Jeff } In
vs } Case
Jn^o Berryman ——— Deft }

Verdict and judgment for thirty pounds damages. and Costs which are Nine dollars and Seventy five cents

Teste Sam Kello

Berryman
Sup
Ri
to
Enquirer
Fisher's Board

Know all men by these presents that we John Berryman, John Harris & Robert Mabry are held and firmly bound unto John & Edward Fisher's, Exors of Daniel Fisher dec'd in the sum of Five Hundred Dollars Curt of a suit in Common Law current money of Virginia to which payment well and truely to be made unto the said Fisher's Executors Their heirs & Assigns we bind ourselves our heirs Exors & Admors jointly and severally firmly by these presents Sealed with our seals and dated this 17th day of March 1799

The condition of this obligation is such that whereas the sd John and Edward Fisher Exors of Daniel Fisher dec'd hath obtaind a judgment at common law against the said John Berryman in the county court of [illegible] for the sum of [illegible] pounds current money and costs & the said John Berryman hath obtaind an injunction to stay the Execution of the said judgment untill the matter in equity upon the Bill for that purpose filed can be heard if therefore the sd Berryman, Harris & Mabry shall satisfy and pay the said judgment at common law all costs and damages that shall be awarded to the said John Fisher and Edward Fisher Executors of Daniel Fisher dec'd In case the said Injunction shall be dissolved then the above obligation to be void or else to remain in full force & virtue

Sealed & delivered in presence of
Nat'l Mabry

John Berryman Seal
Harris Seal
Rob't Mabry Seal