

1803-018

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BOYKIN

VS.

BALLARD

1803

other surnames: TURNER,
BRANCH

Boykin
 vs
 Ballard

Bill of
 exchange

3/4

6/10

To the worshipful Court of Southampton
County sitting in Chancery humbly complain-
ing sheweth unto your worships Your
Petitor Simon Boykin. - - -

That some time ago Abraham
Ballard of Nansemond County sold a tract of
Land to Arthur Boykin Decd. who not ha-
ving a sufficiency of money to pay down
for the said Land, gave his bond to the
sforesaid Abraham Ballard for twenty
four pounds. That the tract of Land thus
conveyed by Ballard to Boykin was pre-
viously incumbered by a Mortgage to
Jacob Turner and Henry Branch which
was unknown to the said Boykin at the
time of the purchase. That the tract of Land

sold by Abraham Ballard to Arthur Boykin
was the identical parcel of Land mortgaged
by ^{John Summerell} ~~him~~ to Jacob Turner and A. Branch
which will evidently appear by recurring
to the Deed to the said Boykin and the
aforesaid mortgage to Turner & Branch.
And your Orator further states, that Arthur
Boykin dec^d finding out the fraud & deceit
of the ^{said} Ballard refused to pay the sum of
£24.0-0. before mentioned as he was authori-
sed to do. That upon the decease of Arthur
Boykin your Orator administered upon
his estate. That a suit was immediately
afterwards instituted by Ballard against
him as administrator of Arthur Boykin
which suit your Orator employed an Attorney
to defend. That the said Attorney from some

cause to your Orator unknown, omitted
to make any defence, in consequence of
which a judgment went by default
against him. In tender consideration
whereof as far as much as your Orator
is remediless in the premises. except
by the interposition of this Worshipp^d
Court. he prays that the judgment aforesaid
may be enjoined and that all further
proceedings on the same may be
stayed. and that your worships will
make such other or further decree as
to your Worships may seem meet.
May 24th 1798

The above was sworn to. before me one of
the Justices of Southampton County. *Sam^r Calvert*

To the worshipfull Court of Southampton
County sitting in Chancery, humbly com-
plaining. Sheweth unto your Worships
Your Orator Simon Boykin —

That some time ago, Abraham Ballard
of Nancemond County, sold a tract of
Land to Arthur Boykin dec^d who not
having a sufficiency of Money to pay
down for the said Land, gave his bond
to the aforesaid Abraham Ballard for twenty
four pounds. That the tract of Land thus
conveyed by Ballard to Boykin, was
previously incumbered by a mortgage to
Jacob Turner and ~~son~~ Henry Branch, which
was unknown to the said Boykin at
the time of the purchase aforesaid.
That the tract of Land sold by Abraham
Ballard to Arthur Boykin, was the

identical parcel of Land, mortgaged by John Sumnerell to Jacob Turner and Henry Branch, and afterwards sold by him to Abraham Ballard, which will evidently appear by recurring to the mortgage aforesaid to Turner and Branch and his deed to Abraham Ballard. And your Orator further states that the said Land was afterwards sold by the said Abraham Ballard to Arthur Boykin, under the full commission that the conveyance from John Sumnerell to him was fair & honest. And your Orator states, that Arthur Boykin, after discovering that the title made to him, by Abraham Ballard was not sufficiently good (owing to the imposition on him by the said Sumnerell), refused to pay the aforesaid sum of £24. 0.0. That upon the decease of the said Arthur Boykin, your Orator administered upon his estate.

That a suit was immediately afterwards instituted by Ballard against him as administrator of Arthur Boykin, which suit, your Orator employed an Attorney to defend. That the said Attorney from some cause to your Orator unknown, omitted to make any defence, in consequence of which a judgment went by default against him. In tender consideration whereof, and for as much as your Orator is remissible in the premises, except by the interposition of this Worshipful Court, he prays that the judgment aforesaid may be enjoined, and that all further proceedings on the same may be stopped, and that your Worships will make such other, or further decree in the case, as to your Honors may seem equitable and meet.

Byrd B. Quereute

Simon Baykin
This day, personally appeared before me, one
of the justices of Southampton county, and
made oath that the allegations contained
in the foregoing bill are true, as far as
he knows or believes—

July 16th 1798—

Sam^l Falwell


1798
3-11

Supreme
Court

March 1803

Baykin & Baykin
Prossers & Baykin

X This dep^t further for concern said, that before he
purchased the land aforesaid, that he heard Arthur
Baykin offer to buy the same land of J^r. Summerville
but could not agree on the terms. and not long
before this decess he sent this dep^t word that
he would pay him the twenty five pounds according
to agreement.

Ballard
Baykin
Cassat

JK

The answer of Abraham Ballard up to the bill of
Complaint of Simon Baykin of Arthur Baykin
de? Complainant exhibited against him in the ho-
norable court of Southampton.

This def^t saving & reserving to himself all
manner of exception to the uncertainties & imperfections
in the said Complainant's bill of Complaint contained
for answer thereto or to so much thereof as this def^t
is advised is material for him to make answer
unto he answering saith

That it is true that the bond given by Arthur
Baykin to this def^t was for a parcel of Land sold
him, which Land this def^t purchased of a Certain
John Summerville, and it is on this bond that a
judgment is obtained by this def^t against the
Comp^{ts}.

It may also be true that this Land
was under a mortgage made by John Summerville
anterior to the deed which the said John gave
this def^t but admitting it to have been the case,
this def^t has no doubt as to his deed, but it was
good & effectual in Law. & passed to him an

absolute fee Simple in the Land. This
clerk understood & believed, that on William Bay-
-born & Jacob Turner becoming Security for John
& Stephen Summerville as executors of their father,
that a mortgage was made of this, as well as
other Lands, to indemnify the said Securities
against all injuries that they might sustain
in consequence of their undertaking, but this
clerk is well advised, that the said Arthur and
Jacob did not suffer by their undertakings,
nor is there a probability of their sustaining any
loss on that account, this being the case, the
deed of mortgage, became of more effect, hav-
-ing been given for this express purpose & nothing
else. There might have been a deed of this
kind for the sale of the Land under that mort-
-gage, but if there was it was fraudulently and
unfairly obtained. Can it be possible, that
a man of Arthur Bayborn's prudence, would
have purchased of this clerk a tract of Land

that he ^{did not} hold under a Conveyance from John Sum-
-merville? This clerk did sell & convey him the
Land, & take his bond for the money. The
said Arthur did repeatedly promise this clerk
the payment of the money. This clerk had
previously been possessed of the Land & paid the
Taxes on it for several years, and does
concur that the title he sold, & gave and
suffered one, and that the Statement made
by the Comptroller in the bill is intended fraudu-
-lently to defeat your clerk's right in equity
to delay the payment. ~~He~~ He denies every-
thing unjust & ungenerous in the premises
& prays to be heard disinterested with this Court
as was especially sustained.

Nottingham County to wit, Abraham Ballard came
before me a justice of the peace for the County of said
& made oath that the foregoing answer ^{and the part added} is true as far
as he knows & verily believes, Given under my hand
the 29th day of July -- 1000. M. J. Lohoon

x This dep^t further for concern said, that before he
purchased the land aforesaid, that he heard Arthur
Benjamin offer to buy the same land of J^r. Sumner
but could not agree on the terms, and not long
before his decease he sent this dep^t word that
he would pay him the twenty five pounds according
to agreement.

Batcock
to
Benjamin
} answer

JA