1823-019 SOUTHAMPTON COUNTY CHANCERY PAPERS

CHITTY, et al vs. POWEL et al

7/1823

other surnames: faircloth, Beale, Powell, Beal, Barnes

Cuttup
vs
Paul &c

Bill of Injunction

march 1823 ~~Injunction~~
Decree Injunction
granted &c
upon motion giving bond
within 6 mo.

April 21st 1823 bond
given

To the worshipful Court of Southampton in Chancery sitting.

Humbly complaining shew unto the Court your orators Dixon Chitty and Barton Chitty. That they gave their note on the 14th Jany 1814 to a certain Joseph Mills Fairclotth for thirty dollars payable two months after the date of said note. That sometime in July in the year 1816 the said Fairclotth assigned the said note to a certain Jesse D Beale, and the said Beale on the 2d day of January in the year 1822 assigned the same to a certain Isaac Powel. That the said Isaac Powel assigned as aforesaid hath instituted a suit upon said note and recovered a judgment against your orators and hath sued out an execution thereon threatening to levy the same upon their property. Your orators beg leave to state that they do not owe the debt, but that it has long since been fully paid and satisfied, and that the said Jesse D Beale hath a full & complete knowledge of the same. Sometime after the debt aforesaid became due and upon the same was assigned by the said Beale to your complainant Dixon had a partial settlement with the said Jesse D Beale in which he paid him as by the acknowledgment of said Beale will be made to appear the sum of $13. and on the 31st December in the year 1816 your complainant Dixon delivered and sold to the said Jesse D Beale 159 lbs Pork the price of which ~~was to be ascertained~~ was to be regulated by the prices given by Thomas Jackson. John Barnes or Jacob Barnes, and your orator states that the price given by them in that year he believes

was Eight dollars and fifty cents after the delivery of the
Pork aforesaid and the partial settlement before
mentioned your complainant Dejon paid to the
said Jesse D Beale the sum of ten dollars, for
which he obtained a credit in the Court of common
Law. at the time of the last payment, the said Jesse
alleged that he had not the bond with him
And promised to give the credit upon it, but
never did so. he also denied that the note
he believed was nearly or quite paid and
made several appointments to have a
final settlement but failed to meet in every
instance. after all these occurrences fully
within the knowledge of said Beale, and many
of which your complainants are not prepared
to prove, unless it be by the admission of said
Beale, he the said Beale, in violation of
his promises, and with a total disregard
of common justice assigned the note as has
been before stated to the defendant Powel. your
complainants cannot believe that under such
circumstances they ought in justice or equity
to be compelled to pay the amount of the judgment
aforesaid. In consideration whereof and
in as much as your complainants are without
remedy elsewhere they pray. That the said Jesse
Powel. Jo. Mills Fairclett and Jesse D Beale
may be made defendants hereto and be
compelled to answer all and singular the allega-
tions herein contained fully and unreservedly
and more especially that the said
Jesse D Beale be compelled upon his corporal
oath to say. whether he did not acknowledge upon
a partial settlement with the complainant Dejon
that he was indebted to him in the sum of $13.
and at what time this acknowledgment was
made? That he say whether the complainant
did not sell and deliver at the time herein
before stated. the amount of 159 lbs pork for which
he was to receive payment at the price as herein
before stated? That he state (if the fact comes within
his knowledge) what was the price given by the
before named Thomas Newsum, John Barnes or
Jacob Barnes. for Pork in that year? That in
case he answer upon oath whether the debt
now attempted to be recovered of your complainant
was not fully paid off and satisfied after the
said note came to his hands and before the oppos
the same? your complainants may that the
judgment obtained against them as aforesaid may
be enjoined and the aforesaid defendants and all
others interested may be prohibited from further
acting upon the same until the matters and
things herein stated can be fully heard and
determined in this Court. They finally may
for general relief and that the commonwealth
writ of Injunction may issue commanding &c
and as in duty bound they will ever pray

his
Dixon X Chilly
mark

Southampton County to wit Dixon Chitty this day personally appeared before me a Justice of the peace for said County and made oath to the truth of the within bill of Injunction. Given under my hand this 24th day of Jany 1823

J. H. D. Daughtry. J.P.

Pencil
of 3
Chitty, Air?

Sept. 17th 1863 answer
filed

To the worshipful the County Court of Bartow
- ton in said County

The Answer of Geo
W. Poole to the Bill of complaint exhi
- bited against him in the Court by Hinds
Christy & Barton Attys.

This respondent prays
to be hereby for answer to the Bill says
that he is ignorant of the allegations having
paid one cent towards the note in the
Bill mentioned. He further says that he
is advised that if the Complt has or they
ever paid any thing towards the note
that they should have established the
fact in the Court of Law & cannot now
be permitted to do so in a Court of
Chancery And he relies on this objection
as if the same had been formally plead,
— And having now fully answered he
prays to be hence dismissed &c

Geo. W. Poole

Nov. 17th 1843
Sworn to in open Court
A. Middleton D.C.

Mr. Jesse D. Beal

Take notice that I shall take the affidavits of Jacob Barnes and others at Lawrence Cooks on the 12th day of July next between the hours of nine Oclock in the forenoon and seven Oclock in the afternoon of that day to be read as evidence in an injunction depending in Southampton County Court where in I am plaintiff & and George Powell and yourself are defendants

June 25th 1823

Yours &c
Dixon Chitty

S.ampton County to Wit

I do hereby certify that Thomas Chilly hath personally appeared before me and made Oath that he delivered Jesse D. Beal a true copy of the within Writ on the 27.th day of this Month – Given under my hand this 28.th day of June 1823

Lam.l Cook J.P.

Mr. George Powell

Take notice that I shall take the affidavits of Jacob Barnes and others at Lawrence Cooks on the 12th day of July next between the hours of nine & clock in the forenoon and seven & clock in the afternoon of that day to be read as evidence in an injunction depending in Southampton County Court wherein I am plaintiff and Jesse D Beal and yourself are defendants

June 26th 1823

Yours &c

Dixon Lilly

Sampson County to Wit

I do hereby certify that Thomas Chesley hath this day personally appeared before me and made oath that he delivered George Powell a true copy of the within Notice on the 27th day of this Month. Given under my hand this 28th day of June 1823

Levi Cook J.P.

The affidavit of Jacob
Barney & Thos. Chilly

Southampton County Sct.

I do certify that agreable to the Notices of Dixon Chilly, proved to have been delivd. to Messrs Jesse D. Beal, & George Powell, on the 27th day of Sept. last by the Oath of Thos. Chilly: Personally appeared before me, Jacob Barnes, at the place, on the day, & within the time Mentiond in said Notices; who stats upon Oath that he finds an entry on his Amount Book, entered by himself, where he gave Jesse Britt credit for four Hundred & twenty three Pounds of Pork at Eight Dollars. pr Hundred dated the 31st day of December 1816: and further this affiant sayeth not. Thomas Chilly hath also personally appeared before me on the same day, & within the time, mentiond in the afores. Notices. and stats upon Oath that he had Jesse D. Beal acknowledge that he was indebted to Dixon Chilly the Sum of Thirteen Dollars, and that he did not intend to pay it unless he was compelled to do it by Warrant & then he knew Richd. Blow the Cons. would wait with him two years for the Money. & further this affiant sayeth not. Given under my hand this 12 July 1823.

Lawr. Cook J.P.

Christy
"
Dowse &c.

affidavits

July 21st 1823 came to hand inclosed

James Hackett Esqr.

Clerk of the Court

Gloucester

31st Dec. 1816

Rec. of Jackson & Chitty 169lb. pork which I promise to pay the going price for given by Thos. Newsom Jno. Barnes or Jacob Barnes

J. P. Beal

169 50 ÷ 8.50
10 ÷ 5 4.25
5 ÷ 2 .85
2 ÷ 5 .42½
65
14.87½

Dec. 31/1816 Jno Britt 423lb

pay the Silkin account to Barlow Chilly

Dr. Sam Chilly

Due Dixon Crosby on a Settlement
Thirteen Dollars

W.D. Beach

17th. June 1822 Entered
Offers filed —

June 7th. 1822 Thomas Crosby Personally appeared before me & made Oath that the above due Bill of Thirteen Dollars was assigned & acknowledged by Jesse D Beach in his presence. Given under my hand &c

Lar Cook J.P.

pay the Within account to Barton & Chilly

Chuck
to
Pawnup

Know all men by these presents that we Dixon Chitty, Barlow Chitty and Britton Bryant

are held and legally bound unto George Powell ap^ee of Isle D Bear who was ap^ee of Joseph Pw Fauntleroy in the just and full sum of Sixty Dollars ——— to which payment we bind ourselves our and each of us our and each of our heirs Exec^rs and Administrators jointly and severally firmly by these presents sealed with our seals and dated this 21^st day of April 1823

The condition of the above obligation is such that whereas the above bound Dixon Chitty and Barlow Chitty have obtained from the Chancery Court held for the County of Southampton an injunction to stay all further proceedings on a Judgment at Comm. Law obtained by the said George Powell ap^ee of Isle D Bear who was ap^ee of Joseph Pw Fauntleroy in the County Court of Southampton at a Court held for the County aforesaid the 19 day of Nov^r 1822 for the sum of Five hundred Sixty dollars with legal interest thereon from the 14^th of Nov^r 1814 till Paid and the Costs

until the further order of the said Chancery Court held for the County of Southampton Now if the said Dixon Chitty Barlow Chitty and Britton Bryant shall well & truly pay and satisfy the aforesaid Judgment and all such damages and costs as shall be awarded against them by the said Chancery Court held for the County of Southampton in case the injunction aforesaid shall be dissolved then the above obligation to be void or else to remain in full force & virtue

Test -
A. Broadnax

Dixon Chitty [seal]
Barlow Chitty [seal]
Britton Bryant [seal]