

1841-132

SOUTHAMPTON COUNTY
CHANCERY PAPERS

SCOTT'S ADMINISTRATOR VS. KITCHEN

S/1841

other SURNames: Bailey

Wm. Las pg

Scott's admstr }
vs } Bill. answer and
Kitchen } Exhibit -

1841 May - Deena as filed

To the Worshipful the Justices of the County Court of Southampton
County in Ch. sitting

Humbly Complaining, sheweth unto your
Worships, your Orator ~~Henry~~ Kitchen Alfred S. Bailey administrator
de bonis non with the will annexed of James Scott decd. That a
certain Indenture commonly called a Trust Deed; bearing date the
19th day of January 1829, was made and entered into between Henry
Kitchen of the first part, James Scott of the second part, and
Jonathan Scott of the third part; for purposes therein set forth;
all of which will more fully appear by the said Trust Deed, here-
with filed, and prayed to be taken as a part of this Bill -
Your Orator would also shew unto your Worships, that since
the execution of the said Trust Deed, James Scott one of the
parties thereto has departed this life; and that your Orator
has duly qualified and taken out letters of administration
on his estate, and is now legally competent to enforce and
maintain the rights of the said James Scott decd under the
said Trust Deed.

Your Orator would further shew unto your Worships, that since
the execution of the said Deed of Trust heretofore referred to; ano-
ther of the parties, viz. Jonathan Scott who was sole Trustee in the
said Deed, has departed this life, that the said Deed of Trust
contains no power or authority for the parties to appoint a new
Trustee in the place of the said Trustee Jonathan Scott
decd therein named; by reason of which your Orator cannot
proceed to discharge the duties and powers which devolve upon
him as administrator of James Scott decd; nor can any new
Trustee be appointed without the aid of this Worshipful Court;
To the end therefore that complete justice may be done, your
Orator prays your Worships that Henry Kitchen may be made
a party to this suit, and that the said Defendant may answer
the premises &c. And that the trust of the said Deed may be
performed and carried into execution by and under the
Decree of this Worshipful Court; and for that purpose that
your Worships would be pleased to appoint a new Trustee
in the place and stead of Jonathan Scott decd, for the
purpose of continuing the said Trust in him; and

such new Trustee for the better management thereof; according to the directions and provisions of the said Deed of Trust hereinbefore referred to; shall have and exercise all the powers conferred by said Trust Deed in and upon the former Trustee Jonathon Scott decd; and that your Honors may be pleased, as your Orator is without remedy by the direct and strict rules of the Common Law, and only relievable in a Court of Equity; to grant such other and further general relief as to your Honors may seem just and proper, and your Orator for your Honors will pray &c.

Douglas

The answer of Henry Kitchen to a bill of Complaint exhibited against him by Alfred S Bailey administrator de bonis non with the will annexed of James Scott decd - This Defendant now and at all times hereafter, saving & reserving to himself all just exceptions, and all manner of benefit to the many errors, imperfections, and uncertainties in the said Complainant's said bill of Complaint contained; answering says - That it is true he made a Deed of Trust for purposes therein set forth to which deed, James Scott and Jonathon Scott were parties. That he had no objection to a trustee being appointed in the place & stead of Jonathon Scott decd - who shall have the same powers, conferred by said Deed of Trust, upon the said deceased trustee, Jonathon Scott; and having thus answered he prays to be hence dismissed &c.

Bailey &c } In Ch.
do }

Kitchen } This cause came on this day to be heard,
on the bill, answer and exhibit, and docketed by consent, and argued by Counsel; on consideration whereof, the Court doth adjudge order & Decree, that Jesse Dremy be appointed a Trustee to a Deed of Trust, made and entered into between ~~James Scott~~ Henry Kitchen, James Scott, and Jonathon Scott, it appearing to the Court that the former Trustee Jonathon Scott has since the execution of

the said Trust Deed, departed this life - The Court doth further adjudge, order and Decree, that the new Trustee Jesse Dremy shall have and exercise all the powers & Privileges conferred upon the former Trustee Jonathon Scott by the aforesaid Deed of Trust bearing date the 19th day of January in the year 1829. to which the said Kitchen, Scott and Scott were parties, and that the said Jesse Dremy shall in all respects be substituted for the former Trustee Jonathon Scott; and it is further ordered and Decreed that the Costs of this suit be proportionably borne by the parties &c.

Henry
Richard }
To } Dec 20th 1829
Scott Trustee
1829 Jan 19 Ack'd & admitted
to record
1829 February 16. Vt Supr
The proceedings of the day

Examined

Recorder

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Southampton County In the Clerk's Office the 19th January 1829
This Indenture was acknowledged by Henry Fletcher James Scott and
Jonathan Scott the parties thereto and admitted to record and at a Court
held for the County aforesaid the 16th February 1829 The said Indenture
was entered upon the proceedings of the day

Teste James Rochelle Esq

This Indenture made this nineteenth day of January one thousand eight hundred and twenty nine, Between Henry Kitchen of the County of Southampton and State of Virginia of the first part, James Scott of the said County and State of the second part and Jonathan Scott of the County of Southampton and State of Virginia aforesaid of the third part, Witneseth that Whereas the said Henry Kitchen stands justly indebted by a note of hand to the said James Scott in the sum of Forty six Dollars ———— current money of the United States of America, and whereas for the further assurance of the payment it is agreed by the parties hereto, that a conveyance in Trust shall be made unto the said Jonathan Scott for the benefit of the said James Scott, if the sum on the note aforesaid shall not be punctually paid with lawful interest thereon, on, or before the first day of November next. Now This Indenture Witneseth that the said Henry Kitchen for and in Consideration of the premises and for the further sum of One Dollar to him in hand paid, the receipt of which is acknowledged hath bargained, and sold, and by these presents, doth for himself, his heirs, Executors, and Administrators give, grant, bargain and sell, unto the said Jonathan Scott his heirs and assigns the following property Vizt. one mare, one Cow, one sow & three pigs with all their increase, one Cart, & one pair of cart Wheels, two featherbeds & furs, one chest, one table one iron pot hooks, 1 spider, 1 ax, 1 g hoe, 1 w hoe, & six Bush of Corn To have and to hold the aforesaid granted and bargained premises, unto the said Jonathan Scott his heirs and assigns in Trust forever. And it is hereby declared to be the true intent and meaning of these presents that if the said Henry Kitchen shall punctually pay to the said James Scott his heirs or assigns, the said sum of Forty six Dollars and interest agreeable to the tenor of the said note to the said James Scott then the said Jonathan Scott his heirs and assigns shall hold the said goods and chattels above granted to the sole and proper use and behoof of the said Henry Kitchen. And the said Jonathan Scott covenants, and agrees with the parties hereto, that if the said Henry Kitchen his heirs, Ex^{ors} and Administrators, shall fail to make payment to the said James Scott, his heirs, and assigns, on or before the first day of November next, the sum due on the note of hand aforesaid that then the said Jonathan Scott his heirs and assigns, shall stand seized of the above granted and bargained premises, for the purpose following, that is to say, that at the request of the said James Scott his heirs or assigns, the said Jonathan Scott his heirs, Executors, and Administrators or either of them shall give ten days notice & sell at Publick sale the above mentioned property, and shall pay the money arising therefrom to the said James Scott his heirs or assigns, so far forth as shall be then due, and after satisfying the said note of hand, interest, and all the expenses remaining or arising from the notice & sale, shall pay the surplus money to the said Henry Kitchen or his assigns, In witness whereof the parties have hereunto set their hands and seals, the day & year first above written.

Signed Sealed & Delivered
in presence of

19th Janry. 1829

Henry Kitchen 
mark

A. Middleton
Geo. F. Emley
Peter Edwards

James Scott 

Jonathan Scott 