

1856-023 SOUTHAMPTON COUNTY
CHANCERY PAPERS

DARDEN VS. BLOW & al GURLEY

5/1856

other surnames: Vick,
Gurley, Adkins, Edwards

Darden

v. } Papers.

Blow f.

1836 May Desinif. H

Darden

v. } Stat. Rules

Blair &c

In Southampton Circuit Court.

Richard J. Durdon

Plff

against

Henry Blom & John M. Gurley

Defts

1856. Feby 18: Bill filed with order indorsed thereon awarding Injunction - Bond Security given
Sum. & Inj. awarded. issued. returnable to March Rules.
- " Mar. Rules. Sum. & Inj. not executed - Decree nisi 3. Defs.
- " Apr. " 7: Bill taken for confessed
- " " 28: Cause set for hearing on bill 0.

Richard L. Darden
 vs $\bar{3}$
 Henry Bliss & John M. Gurley
Injunction.

1856 Feby. 18 Bill filed. bond & return
 given. Sum. & Inj. if.

To the Honorable Richard H. Baker, Judge of the
Circuit Court for the County of Southampton.

Humbly complaining sheweth unto your
honor, your orator Richard S. Darden of the County of South-
ampton, a merchant in the said county or dealer in any
goods, groceries, hardware &c — that Richard Sharpe Vick
of the said County was justly indebted to your orator, on the
first day of February in the year 1855, in the sum of one
hundred and sixty five dollars and seventy four cents, as
will appear by bond dated on that day and bearing interest
from January the first of in the same year, which bond is here-
with exhibited (marked A) and prayed to be considered a part
of this bill — that the said Vick is further indebted to your
orator, by bond executed to Mary Ann Adams on the
28th day of June in the year 1854 (which bond is now the prop-
erty of your orator) upon which about the sum of one hundred
and fifty dollars to one hundred and seventy five dollars
is still due, and the same is herewith filed (marked B) and
prayed to be considered as a part of this bill — and that the
said ~~Richard S. Vick~~ is further justly indebted to your
orator in the sum of one hundred to one hundred and
fifty dollars due by open account contracted in the
year 1855 —

And Your Orator further states that he is bound
as security for the said Richard S. Vick to Gilliam
Edwards of the said County, in two bonds of about one
hundred dollars each executed respectively in the years
1854 and 1855.

And your orator ^{that it is pretended by Henry Blood and Mrs M. Gentry} expressly states, that the said Rich-
ard S. Vick being justly indebted as above specified, did
some time in the month of March, ~~April, the year 1855~~
in the year 1855, execute to Henry Blood, of the said county,

as trustee, a deed of trust for the benefit of John M. Gurley of the said county - that is to say to secure to the said Gurley the payment of certain debts due to him by the said Vick, or to indemnify him, the said Gurley, against all loss or security for the said Vick - which said deed of Trust conveyed and grants a certain tract of land ^{the property of the said Vick} lying in the said County of Southampton, containing about three hundred acres and bounded as follows, - on the North by Henry Blow, on the East by the Cottaway river, on the South by John M. Gurley and on the West by Henry Blow - It being now very nearly the only property of any kind whatsoever belonging to the estate of the said Richard S. Vick.

Now your orator expressly avers and declares that ~~the said~~ deed of trust to the said Blow as trustee for the benefit of the said Gurley conveying the said land lying in the said County, has never been admitted to record in the clerk's office of the said county of Southampton - Nor has any deed of trust or deed of any kind whatsoever imposing an encumbrance upon the said land ever been executed and recorded by the said Vick to the said Henry Blow as trustee or to any other person as trustee for the benefit of any one.

~~Notwithstanding~~ ~~Notwithstanding which facts~~ ~~the~~ And your orator further states to your honor that about time in the month of December in the year 1855 the said Richard S. Vick was declared, according to law, a lunatic and that your orator, at the succeeding January Term of the county court was appointed, by the said Court, his committee, and entered into bond with James J. Darden as his security, in the penalty required by the said Court as will appear by an extract from the records of the said Court herewith filed (marked C) and prayed to be taken as a part of this bill. * And that the said Vick is largely indebted to the persons herein your orator ~~and~~ ^{the said Gurley} ~~prays~~ ^{alleges} Notwithstanding which facts your orator alleges that the said Henry Blow has advertised for sale, at public auc-

tion the said tract of land in this bill described, to be sold on Monday the seventeenth day of February in the year 1856, alleging that he is acting as trustee in the said deed of trust before mentioned - the said Henry Blow and John M. Gurley thereby continuing to defraud your said orator and the other creditors of the said Richard S. Vick. All which allegations and doings on the part of the said Henry Blow and John M. Gurley are contrary to equity and good conscience, and tend to the manifest ~~injury~~ wrong and injury of your orator in the premises.

In tender consideration whereof and forasmuch as your orator is reminded by the premises save by the aid of a court of equity where matters of this nature are properly cognizable and relievable - to the end therefore that justice may be done your orator prays that the said Henry Blow and John M. Gurley may be made defendants hereto, and be compelled a full, true and perfect answer to make to the allegations and facts herein made and stated, as if they had been separately repeated to them, and they specially and distinctly interrogated thereto.

And your orator further prays that the said Henry Blow and John M. Gurley, their agents and all others may be enjoined and restrained by the injunction of this Court from making sale of the said tract of land, or committing any waste or spoil on or to the said premises, or any part thereof - that a writ of injunction may be issued, - and that such other further and general relief may be afforded your orator as the nature of his case may require or to equity shall seem meet. And as in duty bound he will ever pray &c.

Ans J. Kindred att. for
Richard J. Darden

State of Virginia

County of Southampton }
Twit.

This day personally appeared before me
a justice of the peace in and for the County aforesaid, Richard S.
Darden, plaintiff in the foregoing bill, and made oath that the
statements made in the said bill, so far as made of his own knowledge,
are true, and so far as made upon knowledge or information derived
from others, he believes them to be true.

Given under my hand this 15th day of February AD 1856.

B. Devany JP

Richard S. Darden

vs

3

Order of Injunction

Henry Blow & John M. Gurley

To the Clerk of the circuit court of
Southampton County.

On motion of the plaintiff, by counsel and for
good cause shown, a writ of Injunction is awarded him to enjoin
and restrain the defendants, Henry Blow and John M. Gurley,
their agents and all others concerned, from making sale of the
tract of land in the bill mentioned or any part thereof, or com-
mitting waste and spoil upon the same or any part thereof, it
being the one of which Richard S. Vick was seized, lying in
the County of Southampton and containing about three hundred
acres, and from entering or removing any thing from it till
the further order of this Court.

But the plaintiff is not to have the benefit of this order
until he shall enter into bond, with sufficient security, in the Clerk's
office of the ^{said} Court, in the penalty of one hundred dollars
payable to the defendants, and conditioned to pay them, or either of them, all
such damages and costs, as they or either of them may sustain in consequence
of the said injunction, in case the same shall be dissolved.

Rich. H. Baker

Feb. 15. 1856

* And your orator further states that he did at the same term of the said County Court (January AD 1856) petition the said Court, it being apprehended by your orator the Committee of the said Senate, that his ^{and the said property of his real estate} personal estate would be insufficient for the discharge of his debts, for authority to mortgage, or sell ^{lease} ~~the~~ much of the real estate of the said Senate as may be necessary for the purposes aforesaid, and as indicated & required by the 46 Section of Chapter 85 Code of Virginia — And in pursuance of the said petition the said County Court of Southampton made an order directing a Commissioner in chancery to inquire into and report upon the matters therein contained — all of which said proceedings, in the said County Court are now regularly pending therein.

Darden

2 } Sp. & Engin.

Mon 8th

1856 March Rules

~~Excited~~
~~Dep't for S. Kello staff~~

En. by delivering to
each a copy. Feby. 18th.
1856.

Mills D. Sumner

Dep't for S. Kello staff.

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon

Henry Mow & John McGurley

to appear at the Clerks office of our Circuit Court of Southampton county at the Rules, to be
holden for the said Court on the first Monday in *March* next, to answer a bill
in Chancery, exhibited against *them* •• in our said court by *Richard I Darden*

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *18th* day of *February* 185*6* in the *80th*
year of the Commonwealth.

L R Edwards

To enjoin & restrain the defendants their agents and all others
concerned from making Sale of the tract of land in the plaintiffs
bill mentioned or any part thereof, or committing waste or Spoil upon
the same or any part thereof, it being the same of which Richard
G Vick was seized lying in the County of Southampton and con-
taining about three hundred acres, and from cutting or remov-
ing any thing from it until the further order of the Court -
the plaintiffs having given bond & security in the sum of \$100.
to pay to the said Henry Blount & John M. Gentry or either of them
all such damage and costs as they or either of them may sustain
in consequence of the said injunction in case the same shall be dis-
solved.

Test.

J. R. Edwards Clk

Know all men by these presents that we Richard I. Darden & John I. Kindred are held and firmly bound unto Henry Blon & John M. Gurley in the sum of one hundred dollars to the payment whereof we bind ourselves on heirs Exors & admors. jointly & severally firmly by these presents. Sealed with our Seals & dated this 18 day of Feby 1856

The condition of the above obligation is such that whereas the above bound Richard I. Darden hath obtained from the Judge of the Circuit Court of Southampton County an injunction to enjoin & restrain the above named Henry Blon & John M. Gurley their agents and all others concerned from making sale of the tract of land in the plaintiffs bill mentioned or any part thereof, or committing waste or spoil upon the same or any part thereof, it being the same of which Richard I. Vick was seized, lying in the County of Southampton and containing about three hundred acres and from cutting or removing any thing from it until the further order of the Court - Now if the said Richard I. Darden shall pay to the said Henry Blon & John M. Gurley, or either of them, all such damage and costs as they or either of them may sustain in consequence of the said injunction in case the same shall be dissolved then the above obligation to be void or else to remain in full force and virtue.

Richard I. Darden *(Seal)*
John I. Kindred *(Seal)*