1869-019 SOUTHAMPTON COUNTY CHANCERY PAPERS

PRETLOW et al vs. EDWARDS et al

3/1869

other surnames: Williams, McClenny, Clayton, Gillette Shands, Brister,

123

S. D. Pattison &c.

vs } Bill

Allen Edmondston

Southn. Cir. Ct.

A. D. Pitts Sec

vs

Bice

Allen Edwards Sec.

1869. March Rules

Southn. Cir. Ct.

To the Hon. Richard R. Baker, Judge of the Circuit Court of Southampton County, Virginia

Your Complainants Shew unto the Court Your Complainants I. D. Pulliam Jeremiah Williford guardian of F. E. Williams for the benefit of F. E. Williams & Susan F. Jeffreys guardian of Wm. E. & Linnus Williams and James M. Blackburn, Richard W. Clayton, & Bradock W. Clayton surviving Executor of Jas. Clayton deceased.

Your Complainants respectfully represent to the Court and say

1st That on the 22nd day of December 1859, Allen Edwards of said County purchased of Wm W. Cobb & John R. Kilby, Commissioners a Lot of Land in said County at the Village of Franklin fronting on the Seaboard & Roanoke Rail road, and on which was a Store-house, and which formerly belonged to R. G. Edwards, and was purchased by him of Richd Bartlett, as will be seen by deed dated 18th June 1860 (reciting the sale under Decree of Court, as made on the 22d day of December 1859) and recorded in the Clerk's office of Southampton County on the 18th of June 1860 - a copy of which Deed is filed herewith - as part of this Bill & marked (A.)

2nd That the said Allen Edwards having become the purchaser of said premises on the 22d of December 1859 under a Decree of Court, did not wait for

a Deed to be made to him, but did on the 28th day of December 1859, execute a Deed of the same premises to Joseph C. Gillette & Joshua Pellow, jointly & who were merchants & partners doing business on said premises under the style of Gillette & Pellow. — But this Deed was never recorded until the 18th day of November 1867, nearly Eight years after its date, But that as soon as the said premises were purchased of the said Allen Edwards by the said Gillette & Pellow, they took charge thereof and have ever since continued in the possession — a Copy of this last named Deed is filed herewith & marked (B.)

3d. That whilst the said Allen Edwards was, as far as the records showed, the owner of said premises, to wit: on the 4th day of May 1866, your Complainant, I. D. Pellow, as assignee of Jane W. Pellow obtained a judgment in the Circuit Court of Southampton County against him, the said Allen Edwards for the sum of $500 with legal Interest thereon from the 5th day of February 1846 till paid — $87.02 cts — subject to a credit of $30. on the 2d March 1849 — $30. on 15th April 1850 — $60 on 15th April 1852 — $85 on 15th Jany 1855 $60. on 20th April 1857 $60 on 21st Feby. 1859 — as a setback of said judgment is filed

herewith and marked (C), and which judgment was docketed according to law on the 15th May 1866 and became a Lien on said real estate as all other real estate of the said Allen Edwards then owned by him.

4th That if your Complainants are mistaken in charging that the said Real estate remained as the property of Allen Edwards from the date of his purchase on the 22d day of December 1859 till the 15th May 1866 when the said judgment in favor of F. D Pullen was docketed, and it be so that the same became the property of said Gillette & Pullen on the 28th of Dec: 1869, at which time said Deed executed on that day was not recorded till the 18th of 1869, then your Complainants say that the said Real estate is subject to the following judgments of your other Complainants and any other judgments of prior or equal dale to which, a Judgment in favor of said Jeremiah Williford guardian of F.E. Williams for $227.47, with Interest from the 26th March 1859 till paid & $6.82 cost — a Judgment in favor of said Susan L. Jenkins guardian of M. E. & F. Williams for $155.23 with Interest from the 26th March 1859 till paid & $6.82 cost — A Judgment also in favor of said Susan L. Jenkins as guardian aforesaid, for $634.28 with legal

interest from the 12th of May 1858 till paid & $6,82 cents — a judgment in favor of James M. McClenny, Richard W. Clayton & Murdock M. Clayton surviving Executors of Jas. Clayton dec'd for $328-28 cents with interest from the 13th June 1860 — all of which last four judgments were rendered in the Circuit Court of said County on the 4th day of May 1866 & docketed according to Law on the 15th day of May 1866 and are against Joshua Pattison surviving partner of said Gillette & Pattison — abstracts of said judgments are filed herewith and marked respectively A. B. C. D. & E

5th Your Complainants say further, that notwithstanding the sale of said Real estate by the said Allen Edwards on the 28th day of December 1859, and the continued possession of Gillette & Pattison & the said Joshua Pattison the survivor of said firm of Gillette & Pattison from the 28th of December 1859 till now, yet on the 6th day of September 1867, he, the said Allen Edwards executed a Deed to Richard A. Brisler, a young man, his Grandson, or other near relative for said property for the expressed consideration of $2000, only, which your Complainants say was never paid & is not one half the value of said property. Which

deed was recorded on the 6th day of September 1867 a copy of which is filed herewith & marked (A.) —

6th Your Complainants say that the said Richard A. Bristow knew and had actual notice that the said property had been sold to said Gillette & Prettyman, and had known it for a long time, and knew that they had purchasing thereof and were in daily use of the same, and that the Deed to them as aforesaid is null & void, and furthermore was executed by said Allen Edwards (who was in embarrassed circumstances) to his relative for much less than the value of the property & without consideration — nothing having been paid therefor — was intended to hinder & delay & defraud his creditors is fraudulent & void.

7th That Jas. E. Gillette, one of the purchasers of said real estate died in 1864 Intestate, leaving as his heirs at Law, his widow named Emeline & three Infant children to wit: Jas. L.; Bettie & Wm. P. Gillette. That Joshua Prettyman has been declared a Bankrupt by the District Court of the United States for Virginia at Norfolk & Wm. B. Shands has been appointed his Assignee.

8th That in consequence of the any compli-

said condition in which the said real estate is placed by the transactions aforesaid your complainants have been advised to apply to a Court of Equity to adjust the rights of the several parties.

Your Complainants pray that the said Real estate at Franklin aforesaid may be sold. That the value of the Dower of any wife therein, of Mrs Emeline Gillett be ascertained and paid to her. That the question as to the Lien of your Complainants J. D. Pettit's Judgment be determined — That the rights of your other Complainants under their Judgments be ascertained as also whether there are any other Judgments of prior or same date and Liens on said Land or any part thereof. That the Deed from said Allen Edwards to said Richard A. Bristol be set aside, and that any other real estate to which said Allen Edwards may have had title & which is subject to the Judgment Lien of your Complainant, J. D. Pettit's Judgment may be ascertained and held liable for same, and that such other orders and decrees may be made as may be consistent with Equity.

In consideration whereof and as

this Court has jurisdiction to grant all adequate relief - To the end your Complainants pray that Allen Edwards, Joshua Pelton, Wm. B. Shands Agt. & Trustee in Bankruptcy of said Joshua Pelton, Richard A. Bpister, Emeline Gillett, Jos. L. Pelton & Wm. D. Gillett (the last three Infants) may be made Defendants hereto, and that each may be compelled to answer the several allegations herein on oath, and that his, as particularly as though they were again repeated - and especially that the said Allen Edwards and Richard A. Bpister shall say whether they did not know of the sale aforesaid by the said Allen Edwards to said Gillett & Pelton of said real estate at Franklin - whether any money or other thing was paid by said Bpister to said Edwards - and that the said Allen Edwards also set forth a distinct list and description of all the real estate owned by him on the 15th of May 1866 when the Judgment of said J. L. Pelton was docketed. That some proper person may be appointed to defend the Infant defendants aforesaid - That said Emeline Gillett may say whether she will accept for any Lien she may have in said

real estate at Franklin (if any) or money equivalent therefor — and that all other relief may be practiced consistent with Equity.

And your Complainants will &c.

Thos. S. Kilby P.Q

Pinckney &c.

v

Edwards &al

Answer of
Defendants.

1869 March Rules

The Joint & separate answer of Jno. L. Gillette, Bettie Gillette & Wm D. Gillette, Infants by L. R. Edwards their guardian ad litem to a Bill in Chancery, filed in the Circuit Court of Southampton County by I. D. Pulton &al. against Allen Edwards &al.

These defendants say that they are Infants, & ignorant of their rights in the premises and therefore submit the same to the Court & request that no order or decree be made in the case inconsistent with their rights

L. R. Edwards Gdn &c.

Pretlow & others

v. Sumpr. Chy

Edwards & others

1869 March Rules

Executed on Wm. B. Shands Joshua Pretlow, Emaline Gillett, Joseph S. Billie & Wm. P. Gillett Feb. 16th. 1869 & on Richd. A. Brisler & Allen Edwards Feb. 27th 1869 by delivering a copy to each one of them.

E. L. Story Dept
for S. Kello Shff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Southampton—Greeting:

We command you to summon Allen Edwards, Joshua Pretlow Wm B. Shands asignee in bankruptcy of said Joshua Pretlow Richard Brister Emaline Gillette, widow, & Jos L. Bellie & Wm P. Gillette infants,

if they be found within your bailiwick, to appear at the Clerk's Office of our Circuit court of Southampton County, at the Rules to be holden for the said court, on the first Mondy in March next to answer a bill in Chancery exhibited against them in our said Court by J. D. Pretlow & others

And have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-House, this 16 day of February A. D., 1869, in the 93 year of the Commonwealth.

L R Edwards clk

Patton sale

vs

Edwards sale

& Ex: filed with

the Bill

(A)

Cobb & Kilby, Com'rs

to } Copy Deed

Allen Edwards

Date 18 June 1860

Recorded same day

Whereas by a Decree of the Circuit Court of Southampton County pronounced on the 9th day of November 1859, in a Chancery Cause therein pending wherein Junius Edwards &c. are plaintiffs & Jesse A. Edwards, Defendant, it was decreed & Ordered that W. W. Cobb & John R. Kilby, (who were thereby appointed Commissioners for that purpose,) proceed to Sell the lot of Land at Franklin in said County, which was purchased by R. G. Edwards of Richd. Barrett, & fronting on the Seaboard & Roanoke Rail Road, and on which lot there is a Store House. The said Sale to be on Six Months Credit, - and Whereas the said W. W. Cobb and John R. Kilby, in pursuance to said Decree, did, after due Notice, Sell at auction at the Village of Franklin, on the 22nd day of December 1859, on Six Months Credit, the lot of Land aforesaid, when Allen Edwards became the highest bidder and purchaser of the same at the price of One Thousand Dollars, which he secured as required. And Whereas by another Decree Made in the said Cause at the May Term 1860, of said Court, it was decreed that the said Cobb & Kilby, as Commissioners aforesaid, proceed to Collect the said Sum of One Thousand Dollars, of the said Allen Edwards, & Make to him a Deed for the real Estate aforesaid, with Special Warranty, in the usual form. - This Deed therefore Made & executed this 18th day of June 1860, between the said W. W. Cobb & John R. Kilby, as Commissioners aforesaid of the one part, & the said Allen Edwards of the other part - Witnesseth: That the parties of the first part, in Consideration of the said sum of One Thousand dollars aforesaid & all Interest due thereon, do grant & it Special Warranty unto the said Allen Edwards & his heirs & assigns aforesaid the real estate above described & which was Sold as above Set Forth. - Witness the following Signatures & Seals. -

Wm. W. Cobb, Com Seal
John R. Kilby, Com Seal

Southampton County, In the Clerk's Office, June 18th 1860.
This Deed of Bargain & Sale was acknowledged by Wm. W. Cobb and John R. Kilby, Commissioners, parties thereto & admitted to record. -

Teste:

J. R. Edwards, Clk

A Copy

Teste

L. R. Edwards Clk

This Deed Made this the 28th day of December 1859, between Allen Edwards of the one part and Gillette & Pretlow (Joseph E. Gillette & Joshua Pretlow, jointly) of the other part, all of the County of Southampton & State of Virginia. Witnesseth, that in Consideration of the Sum of Fifteen hundred dollars, $1500.00/100 the said Allen Edwards doth grant, bargain & sell unto the said Gillette & Pretlow, a certain lot of land situated and being in the Village of Franklin in the said County of Southampton, Containing One Acre, More or less, it being the same lot, sold by Richard Barrett to Robt. G. Edwards, Dec'd. as shown by Deed or record in the Clerk's Office of said County, and the same also purchased by the said Allen Edwards when sold by W. W. Cobb & John R. Kilby, Commissioners to sell the same with general Warranty. - Witness the following Signature & Seal this the day & date above Written. -

Moody Smith
Jas. E. Lawrence

Allen Edwards, (Seal)

At a Quarterly Term of the County Court of Southampton County, Commenced & held at the Court House thereof, on Monday November 18th 1867.
A Deed of Bargain & Sale from Allen Edwards to Gillette & Pretlow, bearing date 28th of December, 1859. Was proved by the Oath of James E. Lawrence, one of the Witnesses thereto, & Moody Smith, the other Witness, being dead, John Moore being Sworn, declared he is well acquainted with the hand writing of the said Moody Smith, & verily believe the Name of the said Moody Smith, to the said Deed Subscribed as a Witness, is in the proper hand-writing of the said Moody Smith. Whereupon, It is Ordered that the said Deed be recorded. - Stamps of the Internal Revenue of the United States, to the amount of One dollar & fifty Cents, being affixed thereto & duly Cancelled. -

Teste: S. R. Edwards. CC

(B)

Allen Edwards

to } Colo Dem

Gillette & Pillow

Date 28 Dec 1859

recorded 18 Nov 1867

A Copy Test L. R. Edwards Clerk

(6)

Phillips &

& Co. Inv

Edwards,

4 May 1866

Southampton Circuit Court May 4th 1866.

I. D. Pretlow assignee of Jane W Pretlow. Pff

against } In Debt.

Allen Edwards. Deft.

Judgment for the plaintiff against the Defendant for five hundred dollars with legal interest thereon from the 5th day of February 1846 till paid and the costs. Subject to the following credits. $30. paid March 2d 1849. $30 paid April 15th 1850. $60. paid April 15th 1852. $85. paid Jany. 15th 1855. $60. paid April 20th 1857. & $60. paid Febry 21st 1859.

Pltffs Costs $7.02.

Abstract from the Record

Docketed May 15th 1866. Teste, L. R. Edwards clk

(D)

Lillipus Jd. &c

v. Gen. Ind.

Pullen ens. Part. &c

4 May 1866

Southampton Circuit Court May 4th 1866

Jeremiah Williford Guardian of F. E. Williams Pltff. } In Debt

against

Joshua Prettlow Surviving partner of the firm of Joshua Prettlow & Joseph E. Gillette &c late merchants & partners trading under the name firm & Style of Gillette & Prettlow Deft

Judgment for the Plaintiff against the Defendant for $227.47 with legal interest thereon from 26th March 1859 till paid and the costs.

Pltffs Costs $6.82

Abstract from the Record.

Docketed May 15th 1866.

Teste. J. R. Edwards clk

(8)

Gaskins &

Co. Jno

Pullen Surg &

May 4 – 1866

Southampton Circuit Court May 4th 1866

Susan F Gaskins guardian of M. E & J. W Williams Pelff

against

Joshua Prettlow Surviving partner of the firm of Joshua Prettlow & Joseph E Gillette late merchants & partners trading under the name firm & Style of Gillette & Prettlow. Defts

In Debt

Judgment for the plaintiff against the Defendant for $155.23 with legal interest thereon from 26th March 1859 till paid & the costs.

Pelffs. Costs $6.82

Abstract from the Record

(Docketed May 15th 1866.) Teste. D.R. Edwards clk

(F)

Garkinde

n & co. fnd

Preston, sens part de

4 May 1866

Southampton Circuit Court May 4. 1866

Susan F. Gaskins Guardian of M. E & Junius Williams Pefft

against

Joshua Pretlow Surviving partner of the firm of Joshua Pretlow & Joseph E Gillette now dec'd late merchants & partners trading under the name firm & Style of Gillette & Pretlow Deft

In Debt.

Judgment for the plaintiff against the Defendant for $634.28 with legal interest thereon from 12th May 1858 till paid & the costs -

Pefft's Costs $6.82

Abstract from the Record.

Docketed May 15th 1866 - Teste J.R. Edwards Cc

(7)

McElenny Sal

vs Eq. Inv.

Prelim, surs part de

4 May 1866

Southampton Circuit Court May 4th 1866

James M. McClenny, Richard W Clayton & Murdock M Clayton Surviving Executors of themselves & A. S. H. Burges executors of James Clayton Pltffs

against

Jos. E Gillette & Joshua Pretlow, late partners doing business under the name & Style of Gillette & Pretlow. Deffts

} In Debt

This suit abated at the Rules as to the defendant Gillette by his death. Judgment against the defendant Pretlow for three hundred & twenty eight dollars & twenty eight cents with legal interest thereon from the 15th day of June 1860 till paid & the costs.

Pltffs Costs $7.42

Abstract from the Record

Docketed May 15th 1866. Teste L. R. Edwards clk

(4)

Allen Edwards

to } Ack Deed

Richard A. Bister

Date 6 Sep. 1867

Recorded same day

34 each,

This Deed, Made this Sixth day of September in the year One Thousand eight hundred & Sixty Seven, between Allen Edwards of the first part, grantor, & Richard A. Brister, grantee, of the other part, both of the said parties of the County of Southampton & State of Virginia, Witnesseth, That the said grantor for & in Consideration of the Sum of Two Thousand dollars to the said grantor by the said grantee paid, the receipt of which Sum is hereby acknowledged, doth bargain, Sell, grant & Convey to the said grantee, the said Richard A. Brister, that lot or parcel of land lying & Situated in the Village of Franklin in the said County, which was purchased by the said Allen Edwards, the said grantor, of Wm. W. Cobb & John R. Kilby, Commissioners who executed a Deed for the said Land to the said Allen Edwards, which Deed is duly recorded in the Clerk's Office of the County Court of the said County. The said lot of Land is Supposed to Contain One acre, More or less, is Situated on the West Side of the Sea Board & Roanoke Rail Road & on the East Side of the Main Street or public County Road running nearly North & South through Franklin. It being the Same Lot which was lately occupied by Gillette & Dibbin, Merchants, as a Store House &c.
And the said grantor grants & Conveys to the said Brister all the said lot of Land together with all the buildings & privileges & appurtenances of every Kind thereunto belonging, or in any Manner attached, with General Warranty. Witness the following Signatures & Seal, this day & year first above Written.

Allen his mark Edwards, (Seal)

Southampton County, In the Clerks Office, the 6th day of September, 1867. This Deed of Bargain & Sale, from Allen Edwards to Richard A. Brister, was this day acknowledged by the said Allen Edwards, to be his act & deed & admitted to record. Stamps of the Internal Revenue of the United States to the amount of Two Dollars, being affixed thereto & duly Cancelled.

Teste: J. R. Edwards, Clk

A Copy

Teste J. R. Edwards Clk

Southampton Circuit Court May 4th 1866

Jas. M. McClenny Richard W Clayton & Murdock M Clayton surviving Exors of themselves & A.S.H. Barges Exors of James Clayton dec'd. Pffs

against

Jos. E Gillette & Joshua Pretlow late partners doing business under the name & Style of Gillette & Pretlow Defts. } In Debt

This suit abated at the Rules as to the Defendant Gillette by his death and the judgment obtained at the Rules not having been set aside and the Plaintiffs being now entitled to a final judgment against the Deft. Pretlow. It is therefore considered that the Plaintiffs recover against the Defendant $328.28 with legal interest from the 13th day of June 1860 till paid & Costs $7.42

Abstract from the Record

Docketed May 15th 1866 Teste O White Clk

Southampton Circuit Court May 4th 1866

Susan F. Gaskins guardian of M. E & J.W Williams Pff

against

Joshua Pretlow Surv'g partner of the firm of Joshua Pretlow & Joseph E Gillette dec'd late merchants & partners trading under the name firm & Style of Gillette & Pretlow Defts } In Debt.

Judgment against the Deft for $155.23 with legal interest thereon from 26th March 1859 till paid & Costs $6.82

Abstract from the Record

Docketed May 15. 1866 Teste O White Clk

Southampton Circuit Court May 4th 1866

Jeremiah Williford Guard. of F. E. Williams Plff

against } In Debt

Joshua Pretlow Surv'g Ptr. of the firm of Joshua Pretlow & Joseph E Gillette & Co late merchants & partners trading under the name, firm & style of Gillette & Pretlow Defts

Judgment against the Defts for $227.47 with interest from 26 March 1859 till paid & Costs $6.82

Abstract from the Record

Docketed May 15th 1866 Teste O White cc

Southampton Circuit Court May 4th 1866

Eason F. Gaskins Guard. of M. E & Junius Williams Plff

against } In Debt.

Joshua Pretlow Surv'g Ptnr. of Gillette & Pretlow Dft

Judgment against the Defendants for $634.28 with legal interest thereon from 12th May 1858 till paid & Costs $6.82

Abstract from the Record

Docketed May 15th 1866. Teste O White cc

Southampton Circuit Court May 4th 1866

James H Judkins Plff

against } In Debt

Joshua Pretlow Surv'g partner of Gillette & Pretlow Dft

Judgment against the Deft for $759.65 with interest from 29th November 1859 till paid & Costs $6.82

Abstract from the Record

Docketed May 15 1866 Teste O White Cc

Southampton Circuit Court May 4th 1866

Jonathan Darden Pltff

against } In Debt

Joshua Prettlow Surv[ivin]g Partner of Gillette & Prettlow Dft

Judgment against the Defendant for $1,000 with legal Interest thereon from 19 April 1860 till paid & the Costs $6.82

Abstract from the Record

Docketed May 15th 1866 Teste, O White Clk

Southampton Circuit Court May 4th 1866

Abner K Stephenson Pltff

against } In Debt

Joshua Prettlow Surv[ivin]g Partner of Gillette & Prettlow Dft

Judgment against the Deft for $263.13 with interest from 21st April 1860 till paid & Costs $6.82

Abstract from the Record

Docketed May 15th 1866 Teste O White Clk

Southampton Circuit Court May 4th 1866

Abner K Stephenson Pltff

against } In Debt

Joshua Prettlow Surv[ivin]g Partner of Gillette & Prettlow Dft

Judgment against the Deft for $167.64 with interest from 17th December 1860 till paid & Costs $6.82

Abstract from the Record

Docketed May 15 1866 Teste O White Clk

Southampton Circuit Court May Term 1867-

Jason Cushins Pff

against } In Debt.

Joseph E. Gillette & Joshua Pretlow late merchants doing busines under the name & style of Gillette & Pretlow Dfts

Judgment against the Defendant Pretlow for $415.53 with interest from 3d February 1861 till Paid & Costs $6.67

Abstract from the Record.

Docketed May 29th 1867 Teste Whitehead Cl

Southampton Circuit Court November Term 1867

Wm M Jones assee of James Dillard who was assee of Robt S Barnes Pff

against } In Debt.

Joshua Pretlow survg Ptr. of Gillette & Pretlow Dfts

Judgment against the Defts for $469.12 with legal interest from 5th November 1860 till paid & Costs Subject to a Credit of $6.25 paid March 11th 1862

Cost $6.67 Abstract from the Record

(Docketed Decr. 23d 1867) Teste Whitehead Cl

Dr Ellicott

Jos E Gillette
died 1864
Brown E. Emeline
Child- Jos. L, Gillette
" Bettie "
" Wm D "