

1871-040

SOUTHAMPTON COUNTY
CHANCERY PAPERS

POPE et al vs. HOWARD'S ADMINISTRATOR

10/1871

other surnames: Darden

Rope is also

as } Bill, common
 } is common

Howardian

To be entered

J. W. Menharting

Oct. Term 1871

1871 Oct. Decree of Trustee

To the Honorable Joseph W. Nugent judge
of the county Court of Southampton in
chancery sitting

Humbly complaining your orators
Benjamin E. Pope, Harrison P. Pope and
James I. Darden shew unto your Honor
that on the 5th of November 1858 Mr
R. Parker made a certain deed of trust to
D. Henry S. Howard as trustee to secure certain
debts due Thomas N. Briggs and Richard I.
Darden a copy of which deed is herewith
filed marked A and prayed to be taken as a
fact of this bill and that the said bonds
secured in the said deed have come
into your orators hands by assignment
and they are the only beneficiaries under
the said deed, your orators shew that
since the execution of the said deed
that Mr R. Parker the grantor therein
has gone into bankruptcy and has no
interest whatever in the said deed and
that he has since departed this life
and that B. S. Howard the trustee is
dead and Mr B. Shandas has qualified
as his administrator. Your orators shew
that they as the beneficiaries in the said
deed are the only persons interested
and they wish a new trustee appointed
to carry out the trusts of the said deed
and it is necessary to invoke the aid
of a court of equity for that purpose

In Tender consideration whereof and
inasmuch as your orators are without
relief except in a court of equity where
such matters are peculiarly cognizable
They therefore pray that Wm B Shames
as administrator of Henry S Howard
may be made a party defendant to this
bill and compel him as full and
perfect answer make to the allegations
therein contained as if he had been
thereunto more fully and specially
interrogated and that the court would appoint
another trustee to the said deed of trust of
Nov 5th 1858 in place of H. S. Howard
and grant such other and general
relief the premises considered as equity may
dictate and the nature of this case may
require and as in duty bound your
orators will ever pray &c

Shames pr. g.

The answer of Wm B Shames administrator of H. S. Howard
to the bill in chancery by B. E. Pope is as follows

This defendant for answer to the said bill or
as much thereof as he is advised it is material
for him to answer, answering says he has no
objection to the court's granting the prayer of
the plaintiffs bill, and having fully answered
prays leave to be dismissed with his costs

Signed

Wm B Shames

Pope is als
vs B. E. Pope
Howard's Admin

By consent of parties
This day this cause was docketed and came
on to be heard on the plaintiffs bill and
exhibit therewith filed, defendants answer
and general replication thereto and was
argued by counsel. On consideration
whereof the court doth acknowledge order
and decree that Wm B Shames be
appointed trustee to a certain deed of trust
of the 5th of November 1858 executed by Wm
R Parker to Henry S Howard as trustee
to secure certain debts due to Thomas
N Briggs and Richard J Darden in the
place of the said Henry S Howard now
deceased and that the said Wm B Shames is
as fully vested with all the rights, duties
and powers of the said trustee as if he
had been originally appointed by the grantor
in the said deed

This Deed Made the 5th day of November, A. D. 1858, between Wm B. Parker, of the one part & Henry E. Howard, trustee of the other part. Witnesseth, that the said Parker doth grant & convey unto the said Howard all that lot or parcel of land lying in or near the Town of Jerusalem, in the County of Southampton, being the same lot whereon the said Parker now resides, supposed to contain seven acres more or less, and bounded by the lands belonging to the heirs of the late James Rockelle of the late Fielding J. Mahone and by the public road, together with all the buildings, privileges, and appurtenances thereto attached.

In trust to secure the payment of a bond executed by the said Wm B. Parker, on the 12th day of August 1858, & payable on demand to Thomas M. Briggs, for the sum of eleven hundred & seventy eight dollars, and of a bond executed by the said Wm B. Parker, on the 22^d day of September 1858, and payable on demand to Richard J. Barden, for the sum of nine hundred & fifty two dollars & fifty one cents, both of which bonds are now in suit in the Circuit Court of Southampton County.

But it is expressly stipulated and agreed by all the parties hereto, that the said Wm B. Parker shall remain in quiet & peaceable possession of the said lot or parcel of land hereby conveyed for the space of three years from the date of these presents & have the exclusive use of the same for his own benefit during that time in the same manner as heretofore.

At the expiration of that period on the order of either the said Briggs, or Barden, or their legal representatives, the said lot or parcel of land may

be sold (in case the said Debt's hereby secured are not paid) the expenses of this trust paid, including five per cent commission to the trustee, the Debt's, or liabilities paid as herein directed, the balance, if any, pay over to the said Wm B. Parker.

Witness the following signatures & seals

William B. Parker. (Seal.)
Henry S. Howard. (Seal.)
Thos. W. Briggs. (Seal.)
B. J. Barden. (Seal.)

Southampton County, In the Clerk's Office, November the 6th 1858. This deed of trust was acknowledged, by Wm B. Parker, Henry S. Howard, Thos. W. Briggs, and B. J. Barden, parties thereto, and was thereupon admitted to record.

Teste

L. B. Edwards. C. C.