

1879-123

SOUTHAMPTON CO.
CHANCERY PAPERS

DARDEN VS. KINORED et als 4/1879

(Judgments)

other surnames: Bryant

Geo. W. Farden

no 3

D. W. Kindred & Others

Bill & Exhibits

1879 Mar. 14 Bill & Injunction filed
Bond given. Subj. & Issued

To the Hon ~~Judge~~ ^{Pres.} J. W. Myrhaart
Judge of the ~~County~~ ^{County} Court of Southampton County. -

Humblly complaining sheweth unto your Honor, your Orator George H. Darden of the said County, and respectfully represents as follows:

That on the 13th day of November 1873, your Orator executed a certain Deed of Trust which was duly admitted to record in the Clerk's Office of the County Court of said County on the first day of December 1873, a certified copy of which is herewith filed as part of this Bill (and is marked 4)

Your Honor will observe that by the said Deed of Trust, a certain tract of land is granted and conveyed to David H. Keindred as trustee for the purpose of securing a debt therein mentioned, which said debt is evidenced only by the statement of the same in the said Deed of Trust, and that no note, bond or other writing has ever been executed by your Orator acknowledging said debt.

At the January term, ¹⁸⁷⁹ of the County Court of said County, the said Trustee, having previously advertised the same, sold the said tract of land, at public auction at the Court House, for cash, and Wm R. Stephenson became the purchaser for the sum of \$855 Dollars, to the said Court.

The said purchaser having failed to comply with the terms of the said sale, the said Trustee has again advertised the said tract of land to be sold again at auction, for cash, at the said Court House on the Third Monday (17th day) of this present month of March 1879.

Your Orator expressly and emphatically al-

leges and charges that such sale of the said farm
if allowed to be made as proposed by said trustee
would almost certainly result in large loss
and injury to your orator, which would be
entirely unnecessary for the full protection
of the rights and demands of the said bene-
ficiaries. Because admitting the debt claimed
by ~~the said beneficiaries~~ ~~the said~~ the said bene-
ficiaries to be justly due (and your orator neither
admits nor denies the same at present) the said
farm conveyed in said Deed of Trust, if sold
at a proper, usual & reasonable time would
bring in the opinion of your orator much more
than the amount of the said debt - It is ascertained
on the land book of the County at \$1344.50 cents,
447 acres at \$3.00 cents per acre, which is below
its value, being situated on the Maumee River
and considered generally by persons familiar with
its value, one of the most productive little farms
in that portion of the County for which your orator, but
^{four years or thereabouts ago, offered eight dollars per acre, by a responsible person.}
But if sold at this season of the year,
when those who might otherwise desire to purchase
have not made pecuniary arrangements to
do so, more probably have made other dis-
positions or investments of their money, which
they can not now command; and when the
season is so far advanced that a purchaser
could not make arrangements to plant
& cultivate a crop the present year, there can
be no doubt that the said farm would go
at a sacrifice, & very much below its value,
thus inflicting a serious loss & damage on
your orator, which is not necessary to the protec-

tion of any interest of the said beneficiaries.
Your orator desires here to state that the usual
time for selling land in this County is during
the fall of the year, usually at the October
and November terms of the County Court, and
not after Christmas, which is also well known to
your honor.

Since the execution of the said Deed of Trust, the said Charles
E. Bryant has departed this life & Jonas R. Bryant has qualified
in the County Court of said County, as his Administrator.

Your orator states specially that the said beneficiaries in the said
Deed of Trust mentioned have never sustained any loss by reason of
their said beneficiaryship for your orator as Administrator of said C. E. Bryant.

Your orator therefore, being without remedy save in
a Court of Equity as this Honorable Court is, humbly
prays that the said David H. Kindred, Trustee as
aforesaid & the said Jonas R. Bryant, Administrator of C. E. Bryant dec'd
may be made parties Defendant to this Bill, and re-
quired to answer its allegations specially -

That your honor would order to issue a writ of Injun-
ction enjoining & restraining the said Trustee & all
others from further proceedings towards the sale of
the said tract of land, until the further order of
the Court -

That your honor would grant such other &
general relief, the premises considered, as equity
may dictate & the nature of the case may require
and, as in duty bound, your orator will ever pray he
May it please the Court!

Geo. H. Darden

R. J. Kindred
his Attorney

Virginia
Southampton County } Towit

This day personally appeared before me, a
Commissioner in Chancery for the County Court of said County,
in my said County, the within-named George H. Darden &
made oath that the statements contained in the foregoing
Bill, so far as they are made on his own information,
are true; and so far as they are made on the infor-
mation of others he believes them to be true.

Given under my hand this 12th day of March 1879.

Thos. J. Kindred
Comm^r &c

George H. Darden

John H. Kindred Trustee &

Benjamin S. Bryant & James R. Bryant Admin^{rs} of Chas E Bryant

On motion of the plaintiff by Counsel and for good cause shown a writ of injunction is awarded him to enjoin the said David H. Kindred Trustee, & all others concerned from further proceeding to sell the real estate in the proceedings mentioned of Court

But the plaintiff is not to have the benefit of this order until he or some one for him shall have entered into bond, with sufficient security, in the Clerk's office of the County Court of this County, in a penalty of Two hundred dollars, conditioned as the law requires.

To the Clerk of the County -
Court of Southampton County.

March 13th 1879

J. M. W. W. W. W. W.
Judge &c

George H. Darden

by

D. H. Kindred & others

Will & Exhibits

Return: do

John J. Richards

Given under my hand this 12th day of March 1879.

Notar: at other he believes them to be true.

are true; and so far as they are made on the information, so far as they are made on his own information;

made oath that the statements contained in the foregoing in my said County, the within named George H. Darden &

Commissioner in Chancery of the County Court of said County

This day personally appeared before me, a

Virginia
Southampton County 3
J. J. Richards

Darden

vs $\frac{3}{8}$ Deere

Hundred others

April Term
1899

To be entered

J.W. Myerhart
Judge

April Term
1899

Danden

vs $\frac{1}{3}$ Decree
Kindred & others

This day this Cause came on to be heard on the bill of the Complainants, Exhibits filed with said bill, the answer of the defendant B. J.

Bryant filed in open Court. and was argued by Counsel. on consideration whereof, the Court with advice order & decree that the injunction awarded the plaintiff on the 13. March 1844, be and the same is hereby dissolved; and the Court with further decree that David H. Kindred, trustee, proceed to execute the deed of trust made by Geo. H. Danden & Pauline his wife, the 13th day of Nov: 1843, according to its terms. That if he see the real estate therein conveyed for cash, after twenty days public notice of time & place, by advertisements posted at three or more public places in Southampton: and by consent of parties the said Kindred is not required to execute any bond until the further order of this Court. And the said Kindred will report his proceedings under this order to this Court.

The Commonwealth of Virginia.

To the Sheriff of Southampton County: Greeting.

J We command you to summon *David H. Kindred Trustee Benjamin Bryant & Donas R. Bryant admrs: Chas. E. Bryant* to appear at the Clerks Office of our *County* Court for Southampton County, at the Rules to be holden for the said Court on the first Monday, on *April next* to answer, a bill in Chancery exhibited against them in said Court, by *Geo. H. Darden*. And this they shall no wise omit under the penalty of one hundred *lbs*.

and have then there this Writ: Witness, *Littleton R. Edwards*, Clerk of our said Court, at the Court House this *14* day of *March 1879* in the *103* year of the Commonwealth. *L. R. Edwards C. C*

To enjoin & restrain the Defdt.
 David Kindred trustee, & all others
 concerned from further proceeding
 to sell the real estate, in the Deed
 of trust filed & exhibited in this
 Cause until the further order
 of the Court, the said Geo. H.
 Dorden having ~~given~~ bond and
 security in the sum of Two
 Hundred dollars conditioned as
 the law requires -

Teste: J. R. Edwards Clk

Dorden.

is } bound and defen-
 sion

Bergant & others

1879. Oct. Rules

Executed Nov 1879 by
 delivering a copy to
 B. F. Bryant & David
 Kindred & J. R. Edwards
 J. R. Edwards
 J. R. Edwards

Know all Men by these Presents, That we

George H Darden

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of *Two Hundred* Dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. And we, the obligors herein, hereby waive the benefit of our Homestead Exemption as to this obligation.

Sealed with our seals, and dated this _____ day of _____

A. D. 187

The condition of the above obligation is such, that if ~~the above bound~~

whereas an Injunction

was on the 13th march 1879 ~~was~~ awarded the above
Comd Geo H Darden by the Hon Judge of the County Court
of Southampton County to restrain & enjoin the above named
David H. Kindred and all others concerned for further proceeding
to sue the real estate in the proceedings mentioned until
the further order of the court, & on if the
said Geo H. Darden shall pay all such cash as may be
awarded against him and all such Damages as may be
incurred in case the injunction shall be dissolved the the
above obligation to be void or else to remain in full force and virtue
~~shall faithfully discharge the duties of _____ said office or trust according~~
~~to law, then the above obligation to be void, or else to remain in full force and virtue.~~

Signed, sealed and delivered in }
presence of the Court. }

Geo. H. Darden [SEAL.]

C. W. Alliburns [SEAL.]

[SEAL.]

[SEAL.]