

1892 - 17

Southampton County - Chancery

Smith, Jeremiah vs. Hundley, John A.

"To produce an"
Accounting

To The Honorable C. W. Blair judge of
The circuit court of Southampton county
in chancery sitting

Humbly complaining your Orator
Josiah F Smith sheweth unto your
That on the 8th day of January 1879 by a
certain deed of Trust made that day he
conveyed one hundred and fifty acres of
land lying in Southampton County
to R. A. Bristow as Trustee to secure
a bond of Two hundred dollars payable
1st of January 1880 to John A. Humdley
That by another deed of Trust made
1st of July 1881 he conveyed the same
tract of land to John N. Sebrall as
Trustee to secure a bond for Two
hundred dollars bearing the same
date with the deed and payable to
John A. Humdley all of which will
more fully appear by certified copies
of the said deeds herewith filed
marked exhibits A and B and prayed
to be Taken as parts of this bill

Your Orator states and sheweth
further unto your Honor that by
virtue of section 222 of the code
of Virginia of 1867 he files this his
bill in chancery against John A

Humbly to compel him to discover of
oath the money or thing really lent
and all bargains, contracts, or other shifts
relative to such loans and the interest
and consideration of the same and
what payments have been made on
the said bonds. Your Orator states
charges and avers that upon a fair
settlement of these deeds of Trust
he will be found very little indebted
to the said John A. Humbly.

Your Orator has recently offered to pay
to the said John A. Humbly in
settlement more than he thinks the
said Humbly is legally entitled to
receive that besides the striking off
of interest on the two bonds secured
by these two deeds of Trust he has
paid him two hundred dollars
to wit one hundred received from
The Sunny Lumber Company ^{for lumber sold} and
one hundred dollars paid him by
Miponi Scott for part of this very
debt.

In Tender consideration of these
equitable matters alleged and maintained
as your Orator is without adequate
relief ~~at~~ law and only entitled to

full relief in a court of equity where
such matters are peculiarly cognizable
he therefore prays that John A. Boudley
may be made a party defendant to this
bill that the court would compel him
as free and perfect answer make on
oath to the allegations therein
contained as if he had been thereto
more fully and specially interrogated
that he answer specially if he has
not received one hundred dollars from
The Sunny Lumber Company which
was to be applied to the payment of
these bonds, that he answer specially
if he did not receive from Missouri
Scott one hundred dollars purchase
money for twenty acres of this identical
land which was to be applied as
a payment on these bonds, that he
answer specially what interest he has
received on these bonds whether it was
not more than six per cent per
annum that he state the time he
received the interest, the amount that
~~was~~ then paid and whether or not
he endorsed the payments on the
said bonds at the time and that he
exhibit the said bonds to the
court and your Orator asks that

the Trustes R. A. Bristow and J. A.
Seance may be enjoined and
restrained from selling the Tract or
land in this bill mentioned until
the real amount can be ascertained
to be due from your Orator to
the said John A. Hundley and that
an account may be taken by one of
the commissioners of this Court to
ascertain what is really due and
that the Court would grant such
other and general relief the premises
considered as equity may dictate
and the nature of his case may
require and as he duly bound your
Orator will ever pray he

Josiah F. Smith

~~Shenandoah County~~

State of Virginia }
Southampton County }

This day Josiah F. Smith whose
name is signed to the above bill personally
appeared before me a justice of the peace for
state and county aforesaid and in my county
and made oath that the facts set forth in
the above bill are true to the best of his
knowledge and belief given under my hand
This 1st day of April 1892

L. Lawrence J.P.

This Deed made this 1st day of July 1881 between
J. F. Smith of the one part and John N. Sebell
Trustee of the other part, both of Southampton
County Va. witnesseth: That for and in consider-
ation of the sum of Five Dollars in hand paid
the said J. F. Smith doth grant and convey
unto the said John N. Sebell Trustee as
aforesaid. That Tract or parcel of land lying
& situated in Jerusalem District, containing
150 acres more or less and bounded by the lands
of Nathan Johnson, Jeptha W. Johnson, Robert Wor-
rell and others, it being a part of the Tract former-
ly belonging to Matthew Worrell dec'd and pur-
chased by said Smith of Charles E. Bradshaw.
In Trust however to secure the payment of a note
due John A. Hundley bearing date July 1st 1881
amounting to Two Hundred Dollars \$200.⁰⁰ and
payable on demand. The said Tract is conveyed
with general warranty. It is agreed that in case
of a sale of said Tract of land to satisfy this
Trust Deed, a commission of 5% comrs. on
gross sales shall be allowed the Trustee
Witness the following signature & seal

J. F. Smith (Seal)

State of Virginia.

County of Southampton ³/₄ to wit:-

I, W. J. Sebell, a commissioner in chancery
for the County Court of the County aforesaid do
certify that J. F. Smith whose name is signed

to the writing above bearing date 1st day of
^{personally appeared before me in my said County and}
July A.D. 1881 this day acknowledged the
same to be his act and deed.

Given under my hand as commissioner
aforesaid this 6th day of July A.D. 1881.

W. J. Sebrell
Comr in Chancery

Southampton County: In the Clerk's Office July
6th 1881 This Deed of Trust from J. F. Smith
to J. N. Sebrell Trustee for the benefit of J. A.
Bundley was this day received and with the
certificate thereto ^{annexed} admitted to record.

Teste L. R. Edwards C. C.

A. Copy

Teste B. F. McLenore C. C.

Smith
J. F. } D. F.

Bundley's Trustee

Exhibit

"B"

The Clerk will please copy and file with
the bill the following exhibits

Deed of trust from Josiah F. Smith to R. A.

Bristow dated 8th of May 1879

A

Deed of trust from Josiah F. Smith to

Geo. H. Selous Trustee

TB

Smith
To } D. N.

Murdley's Trustee

Exhibit
"A"

This Deed, made this 8th day of January in the year one thousand eight hundred Seventy nine, between Joseph F Smith of the one part and R.A. Bristow (Trustee of the other part, Witnesseth: that the said Joseph F Smith doth grant unto the said R.A. Bristow Trustee the following property, to wit: one certain piece or parcel of land containing one hundred and fifty acres, more or less, it being the same land as purchased of C.E. Bradshaw and deeded on the 31st day of December 1878, and bounded as follows. on the east by Nathan and Jno. Drew Johnson, on the South by the road leading from Vicksville to Black Creek Church and known as the Quaker road, on the west by the lands of Jno Davis and Johnson Barnes and known as a part of the Matt. Worree Tract. In Trust to secure the payment of the sum of Two Hundred Dollars (200⁰⁰) due to Jno A Hundley, and payable the 1st day of January 1880, with interest from the 1st day of January 1879, as per Bond dated 8th day of January 1879. In the event that default shall be made in the payment of the above mentioned Bond, then the Trustee on being requested as to do by Jno. A. Hundley aforesaid, their successors or assigns shall sell the property hereby conveyed. And it is covenanted and agreed between the parties aforesaid. that in case of a

sale. The same shall be made after first
advertising the time, place and terms there-
of, for Thirty day and upon the following
terms, to wit: For cash as to so much of the
proceeds as may be necessary to defray the
expenses of executing this ^{the fees for drawing and executing this deed} ~~trust~~, if there be
paid, and to discharge the amount of money
then payable upon the said Bond and
if there be any residue of said purchase
money, the same shall be made payable at
such time and secured in such manner
as the said Joseph F. Smith, his executors
administrators or assigns shall prescribe^{and}
direct, or in case of failure to give di-
rection at such time and in such man-
ner as the said Trustees or either of them,
shall think fit. The said Joseph F. Smith
covenants to pay all taxes, assessments, dues
and charges upon the property hereby conveyed
so long as he or his heirs or assigns shall
held the same.

Witness the following signature and seal
J. F. Smith (L S)

State of Virginia,

County of Southampton, to wit:

I, M. D. Butler, a Notary Public for the
County aforesaid in the State of Virginia do

certify that Joseph F Smith whose name is signed to the writing hereto annexed, bearing date on the 8th day of January 1879 has acknowledged the same before me in my County aforesaid.

Given under my hand this 8th day of January 1879.

M. A. Butler

Notary Public.

Southampton County: In the Clerk's Office Feb. 17th 1879. This Deed of Trust from J. F. Smith to R. A. Bristol trustee for the benefit of J. no. A. Hundley was this day received and ~~admitted~~ on February 28th 1879, with the certificate annexed, admitted to record the tax then being paid.

Teste L. R. Edwards Clk.

A copy.

Teste: B. F. McLeod Clk.

Smith

2"  Sum

Hundley

1892. 2" High Rules

Let: let:

Executed March 18th

1892 by delivering
a copy of this Sum;

to J. H. Hundley

R. Y. Williams kept

for J. W. Williams Sheriff,

X

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

John A. Hundley

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 *3rd* Monday in *March 1892* ~~next~~, to answer a Bill in Chancery exhibited against *him* in our said Court by *Josiah F. Smith*

And this *he* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, B. F. MCLEMORE, Clerk of our said Court, at the Courthouse, this *14* day of *March*, 1892, in the 116th year of the Commonwealth.

Test: B. F. McLemore C. C.

Smith ¹⁸⁴⁴
Stat: Rules
Hendley

2 inch

Josiah F. Smith - Plff.

Defendant

In Chancery

John S. Handley - Deft.

1892 Mich 14. Process issued to 2nd Mich Rules

" 2nd Mich Rules. Process Executed. Bills & Exhibits
filed. decree nisi.

" 1 April " Bill taken for Confessed
and Cause set for hearing.

Smith

as 3 Dec

Hendley

To be entered

CMA

May 6. 1892

✓

Entered

Smith

or 3

Hendley

Done

On motion of the plaintiff
The bill in this case is dismissed