

1895-02

Southampton County Chancery - Bank of Portsmouth vs Westbrook, W. B. Jr. et al

Sues to sell land
to settle debts - creditors suit

Westbrook, S. R.
Howard, R. H. (trustee)
Darden, James D.
Pulley, S. T.

Bank of Portsmouth
vs. $\frac{3}{4}$ Bill & Exhibits -
Westbrook et al.

1895. 1. Sept. Rules filed

J. W. Bull. Jr.

To Hon. R. R. Prentiss, Judge of the
Circuit Court of Southampton County,
In Chancery:

Humbly complaining sheweth unto your
Honor, your complainant the Bank of
Portsmouth, a corporation duly chartered
under the laws of Virginia, that on the
5th day of June 1895, it recovered from
a Justice of the Peace of South-
ampton County, a judgment against
W. B. Westbrook Jr. and S. P. Pulley
for the sum of \$92.⁹² with interest
from the 12th day of November 1894 till
paid and \$1.50 costs, a copy of
which is herewith filed, marked
Exhibit "A" and prayed to be read as
part of this bill; that no part
of said judgment has ever been paid;
that said judgment was duly docketed
on the 17th day of June 1895 in the
Clerk's Office of the County of South-
ampton; that so far as your com-
plainant knows there may be other
judgments which are liens upon the
lands of the said W. B. Westbrook Jr.
In addition to this, the said W. B.
Westbrook Jr. together with his co-
tenant S. P. Westbrook, has executed

and there is recorded in the clerk's
office of the County Court of South-
ampton County, a deed of trust to
Rich^d H. Howard, trustee, to secure
a debt of \$3358. ^{It} with interest
from the 17th day of March 1867, to
Jas. D. Darden, a copy of which is herewith filed
^{marked Exhibit B" & proved to be a part of this deed.}
The said W. B. Westbrook is jointly
with C. R. Westbrook, seized and
possessed of the following tracts
of land in Southampton County to-
wit: 1st The tract of lands known
as "Butter Island", containing one
thousand acres, more or less, lying
immediately on the Nottoway River and
bounded on the east by the same, and
lying on the three creeks and bounded
on the south by the same, lying on
Raccoon Swamp, and bounded on the
north by the same, and adjoining
the lands of Waverly Borham.
2nd That tract known as "Borham
Lorrum Tract", containing Five hundred
acres, more or less, adjoining the
lands of Waverly Borham, Benj^l
Everts, Benj^l Leaster Everts and
lying broad side on the road leading
across Blow's Mill swamp to

Leopold's Store.

Your complainant charges and avers that the rents and profits of the interest of said W.B. Westbrook, in said land will not in five years satisfy the judgments which are liens upon the same and that your complainant is therefore entitled to have the said ^{interest of W.B. Westbrook, in said} lands sold to satisfy his own and the other liens thereon.

In tender consideration whereof, and in as much as your complainant is without remedy save in a court of Equity where all such matters are done and properly cognizable, to the end that justice may be done, your complainant prays that the said W.B. Westbrook, J. D. R. Westbrook, R^d H. Howard, trustee, Jas. D. Darden and J. T. Puley be made parties defendants to this bill and required to answer the same though answer under oath is hereby expressly waived; that all proper orders and accounts be directed and taken; that the lien creditors of the said W.B. Westbrook be convened before one of the commissioners of this court; that the lien debts of the said W.B.

* Notice is hereby given that
that court will be asked
to allow a reasonable fee to
the plaintiff's attorney conducting
this suit.

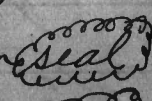
Westbrook Jr. be ascertained, and
the amounts thereof and their order
of priority - of lien be established;
that if it appears that the rents
and profits from the interest of the
said W.B. Westbrook Jr. in the said
lands will not in five years pay
the judgments which are liens upon
the said lands, that it or so much
thereof, as will suffice to satisfy
the liens thereon, and the costs of this
suit and sale, be sold and the pro-
ceeds thereof, be applied to the
payment of the said costs and
liens, that if such rents and profits
will so suffice, the said interest
of W.B. Westbrook Jr. in the said
land, be rented out and the
rents and profits thereof be applied
to the said liens until they are fully
satisfied; and that all such other
further and general relief may be
given as the nature of the case may
require or to equity shall seem
meet.* And your complainant will
ever pray &c.

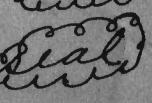
W.B. Westbrook Jr.

This Deed of Trust made and entered into this
17th of March 1887 between Wm B Westbrook
Jr^r and S. R. Westbrook grantors of the first
part and Richard Howard Trustee for James D
Darden of the second part. Witnesseth that for and
in consideration of the sum of five dollars to
the parties of the first part in hand paid by
the said R. H. Howard the the said Wm B
Westbrook Jr^r and S. R. Westbrook do give
grant, bargain and sell and by these presents
have given granted bargained and sold with
general Warranty the following real Estate
lying and being in the County of Southampton
State of Virginia, being all the real Estate
purchased by the said parties of the first part
of Wm B Westbrook Sen^r and his wife V. A
Westbrook. First: one tract or parcel of land
known as the river farm and called Butts Island
containing by estimation about one thousand
acres including the lands of W. B. Westbrook Sen^r
bought of George B Carys Estate and Saml
H. Barham. This land lies immediately on
the Nottoway river and three creeks and
adjoining the the lands of the Estate of
Richard Blow Estate of Richard Epps and
Saml. H. Barham. Second the farm known as the
Barham Stream place containing by estimate
about five hundred acres. adjoining the lands
of the said Westbrook. Saml. H. Barham's estate &
Estate of Anna Jelks. and others making in the
aggregate and conveyed in trust fifteen hundred
acres. more or less. In trust to secure the
payment of a bond for three thousand

three hundred and fifty eight dollars and seventy six cents bearing the same date the same day with this deed - and due and payable to James, D. Darden. And it is hereby expressly covenanted stipulated and agreed that the said W B Westbrook Junr and S. R. Westbrook are to remain in quiet peaceable possession of the above said tract of land for the period of two years from this day upon their paying interest on the above said bond annually as it falls due to wit: on the 1st of March 1888. and on the 1st of March 1889. but in default of their paying the said interest either year as it falls due or at the end of two years from to day - then upon request made by the said James D. Darden his assigns or representatives the said Richard H. Howard, trustee as aforesaid after having given at least thirty days Notice of the time and place shall proceed to sell at Jerusalem on some County Court day at Public auction to the highest bidder for cash, the above said tract of land and out of the money arising from the sale after paying the costs of executing this trust pay to James D. Darden the above said bond of three thousand three hundred and fifty eight dollars and seventy six cents. and the interest thereon due and the balance of the money pay over to the said W B Westbrook Junr - and S. R. Westbrook.

As witness the following signatures and seals.

Wm B Westbrook 

S. R. Westbrook 

Southampton County:

In the Clerk's Office March 17th 1887. The foregoing deed of trust from Wm B Westbrook Jr and S R Westbrook to Jas E D Dardens Trustee was this day received and acknowledged by said Westbrooks and admitted to record

Teste J. B. Prince C. C.

A Copy:

Teste: T. F. M^r Lemore C. C.
By W B Urquhart Jr. D. C.

Bank of Portsmouth

VS } Statement of Rules
Westbrook et als.

Bank of Portsmouth a Corporation duly chartered under
the laws of Virginia. Plaintiffs

Vs. } In Chancery

H. B. Westbrook Jr. S. R. Westbrook. Adm. H. Howard Trustee and
Jas. D. Darden & S. J. Pusey Defendants

1895. 24th Aug. Process Sgd. to 1. Sept. Rules.

1895. 1st Sept. Rules. Process returned & executed.

Bill & exhibits filed. Deem nisi vs. Drafts.

1895. 2nd Sept. Rules. Bill taken for confessed and

Cause set for hearing.

Bank of Portsmouth

VS

} Statement of Costs

Westbrook et al

Banc of Portsmouth

VS } Statement of Costs

Westbrook et al

Assn. 25. 5 Copy 65. Ret 18. Aug. 10. Dock, 18. =	1.36
Rules 50. return 35. filing bill 15. Do 24. 15. =	80
Rules 50. filing statement 15. Copy 24. judg. 25 as 24. "Pr" =	.90
Copy and trust as ex. "B." 50. order of removal 72 =	1.22
Law Costs 40. filing away papers 25 =	65
B. F. McLeannet & Gay & Co	\$4.93
pd J. M. Williams shff.	2.50
for Fishbein & Co. Law & C.	16.50
	\$20.93

Memorandum

The Clerk of the County Court of
Southampton will copy & attach judgment
vs W. B. Westbrooke Jr. & S. T. Percy to be used as
Exhibit "A" in suit of Bank of Portsmouth,
vs W. B. Westbrooke Jr. et al. & Debt of Trust
from S. R. Westbrooke to Richard Howard
Trenwin, for J. D. Doremus as Ex. "B."
L. R. Gay c.c.c.

Bank of Portsmouth
vs } Sum. In chg
Hastbrooke H. B. et al.

1895. 1. Sept. Rules
Rev. Let.

Deposited by deliv-
-ing a copy of this
Sum. to each of the
within named per-
-tis defendant

M. Williams
Suff.

A. G. News kept in
M. Williams suff.

(5)

J. N. Seavey Jr. p. g.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

W. B. Westbrook, Jr. S. R. Westbrook.
Rd. H. Howard, Trustee, and Jas. D. Darden & S. J. Felling

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* Monday in *September 1895* ~~next~~, to answer a Bill in Chancery
exhibited against *them* in our said Court by *Bank of Portsmouth, a cor-*
poration duly chartered under the laws of Virginia

not to go out yet

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

WITNESS, *L. A. Gay* ~~T. M. HOWARD~~, Clerk of our said Court, at the Courthouse, this *24* day of

August, 189*5*, in the *120*th year of the Commonwealth.

TESTE:

L. A. Gay, C. C.

By A. B. W. G. H. J. D. C.

In Southampton Justice Court,

June 5 Term, 1895

Bank of Portsmouth Pltff.
Against

In

W. B. Westbrook and S. J. Pulley Deft.

Judgment for the Plaintiff against the Defendant for \$92.92 ^{waived} ~~homestead~~ with
legal interest thereon from 12th day of November, 1894, till paid,
and costs, \$1.50 ~~cash~~

Extract.

Teste:

B. J. M. Lemore C. C.

A Copy Teste B. J. M. Lemore C. C.

Bank of Portsmouth
n. 3 Dicree
Westbrook & Co.

Sept. term 1895

To be interest -

Robert R. Allen's
Sept. 26, 1895.

Bank of Portsmouth, &c,

T.S.

Westbrook & als.

This day this cause came on to be heard on the complainants bill and the exhibits therewith filed, taken for confessed by defendants, and on the written statement of J. W. Sublett, Attorney for plaintiff showing that the matter in controversy has been fully settled, and was argued by counsel.

On consideration whereof, and it appearing to the court that the object of the said suit has been fully accomplished and satisfied, and that there remains nothing further to be done in the cause, it is ordered that the same be removed from the docket.

Bank of Portsmouth
to 3 Statement of
J. S. M. S. S. S. S.
Westbrook & Co.

1895. 27. Sept. filed
L. C. 409 6. 6.

Bank of Portsmouth &c.

vs.

Westbrook & others.

The object of this suit has been fully satisfied in the payment by W. B. Westbrook, of the amount of the judgment, the issue of which is sought to be enforced by said suit, together with the costs therein accrued and there is now nothing further remaining to be done in this cause.

Respectfully Submitted
J. M. Briggs J. G.