

1896. 02

Southampton County Chancery Bishop, L. H. vs Myrick, W. A. et al

"Injunction"
Restraining from selling
property

Myrick, G. R. Answer

To Hon. C. W. Heill, Judge of the Circuit
Court of Southampton County:

Humbly complaining sheweth unto
Your Honor your complainant, S. H.
Bishop, of Southampton County, Va., that, on
the 1st day of April 1885, he executed to
A. R. Myrick, Trustee, of said County, a
deed of Trust conveying the following
Real Estate, lying in said County, to-wit:
The tract of land on which the said
S. H. Bishop now resides, together with
all the lands lying South and East of
the Cypress bridge road and adjoining
the home Tract, containing 1500 acres,
more or less, to secure the payment of
a bond for \$636.⁹³, executed by your
complainant on said 1st day of April
1885 and payable to W. A. Myrick, as
will more fully appear from a certified
copy of said deed of Trust, herewith
filed as Exhibit "A", and prayed to be
read as a part of this bill; That the
principal of the bond, secured by said
deed of Trust, was made up and con-
sists, in part, of interest calculated at
a greater rate than is allowed by law,
and so your complainant avers and
charges that the said debt secured

by the said deed of trust was and is usurious; that your complainant has paid a considerable amount towards the satisfaction of said debt, and that if the said debt was purged of usury, and the amount so paid by your complainant applied towards the satisfaction of the principal, as your complainant is advised should be done in all cases of usury, there would be found to be due from your complainant to the said W. A. Myrick a very different and much smaller amount than that claimed to be due by the said W. A. Myrick; that the ^{said} A. R. Myrick, trustee, at the instance and request of the said W. A. Myrick, has advertised the said Real Estate for sale, for Cash, on the 19th day of February 1894, to satisfy the said debt, as will more fully appear from a copy of the advertisement herewith filed as Exhibit "B", and prayed to be read as a part of this bill; that your complainant is now quite aged and infirm, being beyond eighty years of age, and to sell his house and home, and his other Real Estate hereinbefore mentioned, to satisfy a debt

but he is unwilling to pay the amount claimed by said W. A. Myrick, which he insists is illegal and usurious -

tainted with usury would, at any time, be contrary to Equity and good conscience, but especially now, at this time of financial stringency and depression, to expose the same to public sale, for Cash, would be to sacrifice the same, to the great injury and prejudice of your complainant, for which the said W. A. Myrick would be financially unable to compensate him in damages. In tender consideration of all which, and inasmuch as your complainant is without remedy, save in a Court of Equity, where such matters are properly cognizable, to the end, therefore, that Justice may be done, your complainant prays that the said W. A. Myrick and A. R. Myrick, trustees, may be made parties defendant to this bill and required to answer the same, though answer under oath is hereby expressly waived; that proper process issue and all proper orders be made; That an account be taken and reported to this Court showing what balance, if any, is legally and justly due from your complainant to the said W. A. Myrick on the said debt; That the said debt be purged of usury and

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

Myrick & Trustee

Large City Portsmouth
H. A. Myrick & A. R.

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 *July 1894* next, to answer a Bill in Chancery exhibited against *them* in our said Court by *S. H. Bishop*

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

WITNESS, T. M. HOWARD, Clerk of our said Court, at the Courthouse, this *16th* day of

February, 189*4* in the 11*8*th year of the Commonwealth.

TESTE:

T. M. Howard, C. C.

Bishop

Myrick et al

Order

Enjoining the plaintiff in this cause, and for good cause shown an injunction is awarded and granted to the said plaintiff S. H. Bishop, restraining and enjoining the said W. A. Myrick, A. R. Myrick, Trustee, their agents, attorneys and all others from seeing or further proceeding to see the real estate in the lile and proceedings mentioned until the matters in controversy between the parties in this suit can be adjudicated in this Court. But the said S. H. Bishop plaintiff shall not be entitled to the benefit of this order until he shall have entered into bond, with approved security, before the Clerk of this Court in the penalty of \$100⁰⁰ conditioned according to law

Copy
Test: J. M. Howard Clk.

Bishop

Myrick et al

1894 2. Feby Order

Lin. Clk.

Porto.

Executed this 17th day of February 1894 by serving a copy hereof on W. A. Myrick in person before J. M. Howard Clk. of City of Portsmouth Va.

Recd fee of 50 cts for Service W. Smith sgt.

Subscribed

I certify that bond has been given in this cause as required with security derived sufficient by me.
J. M. Howard Clk.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON.....

W. A. Meyrick & A. C.

Meyrick Trustee

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 ³.....Monday in *July 1894* ~~next~~, to answer a Bill in Chancery
exhibited against *them*.....in our said Court by *S. H. Bishop*

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

WITNESS, T. M. HOWARD, Clerk of our said Court, at the Courthouse, this.....*16*.....day of

February....., 189*4*, in the 11*th* year of the Commonwealth.

TESTE:

T. M. Howard....., C. C.

Bishop.

Myrick et al.

Order

On motion of the plaintiff in this cause and for good cause shown, an injunction is awarded and granted to the said plaintiff J. H. Bishop, restraining and enjoining the said W. A. Myrick, A. R. Myrick trustee, their agents, attorneys and all others from selling or further proceeding to sell the real estate in the title and proceedings mentioned, until the matters in controversy between the parties in this suit can be adjudicated in this Court. But the said J. H. Bishop, plaintiff, shall not be entitled to the benefit of this order until he shall have entered into bond with approved security before the Clerk of this Court in the penalty of \$1000 conditioned according to law.

A Copy

Filed: J. M. Howard Clk.

Bishop

vs

Myrick et al.

1894. 2 May Return

Bin. Lck

Recorded Feb. 19. 1894

by delivering a copy of this decree to Clerk of Myrick's trustee

W. M. Debbell Clk.

for J. H. Bishop Clk.

Advised to.

I certify that bond has been given in this cause as required by law, security deemed sufficient by me, J. M. Howard Clk.

Notice!!

By virtue of a deed of trust dated April 1st 1885, and duly recorded in the Clerk's office, County of Southampton, State of Virginia and at the request of the creditor therein secured, I shall sell at public auction at 12 m Monday February 19th 1894 at Courtland Virginia on Court day. The following property to-wit. The tract of land on which the said Hith. H. Bishop now resides, together with all the Lands lying South and East of the Cyprus Bridge road and adjoining the home tract. Containing Fifteen hundred acres, more or less.

Terms Cash.

A. R. Myrick
Trustee.

January 17th 1894.

This Deed of Trust made this 1st day of April A.D. 1885, between Stith H. Bishop and Harriet Bishop, his wife of the first part and A.R. Myrick Trustee of the second part and W.A. Myrick of the third part, all of the County of Southampton, State of Virginia. Witnesseth: That in consideration of the sum of Five Dollars, the said parties of the first part do grant and convey with general warranty unto the said A.R. Myrick Trustee as aforesaid the following real estate, to wit: The tract of land on which the said Stith H. Bishop now resides, together with all the lands lying South and East of the Cypress Bridge Road, and adjoining the house tract containing Fifteen Hundred acres, more or less to have and to hold, In Trust to secure a bond and interest due the said William A. Myrick, on demand and dated April 1st 1885 with interest from March 25th 1885, for the sum of Six Hundred and thirty-six and $9\frac{3}{100}$ Dollars, and it is agreed upon by the parties to this deed, that no sale shall take place by virtue hereof until default of payment of said bond and interest is made by the said Stith H. Bishop when such

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demand is made by the said W.A. Myrick, and should such demand not met, Then the said W.A. Myrick shall be at liberty either in writing or verbally at any time to order the Trustee to sell for cash after giving twenty days notice of time and place of sale, sell said tract or parcel of land and appurtenances thereto belonging, and out of the proceeds pay the expenses in the execution of this deed including the Trustee Commission of five per cent on the gross sales, then pay the said W.A. Myrick or his representatives the amount due him with interest, and the balance if any, pay over to the said Stith & Harriett Bishop or their representatives.

Witness the following signatures and seals.

Stith H. Bishop 

Southampton County to wit:

I, Jas. L. Bishop, a Justice of the Peace for the County aforesaid in the State of Virginia, do hereby certify that Stith H. Bishop, whose name is signed to the within writing ~~writing~~ bearing date

the 1st day of April 1885. has this day personally ~~appeared~~ acknowledged the same before me in my County aforesaid. Given under my hand this 1st day of April 1885.

Jas. L. Bishop J.P.

Southampton County: In the Clerk's Office April 1st 1885.

The foregoing Deed was this day presented in said Office and with the certificate thereto annexed admitted to record.

Atte: J. B. Prince C. C.

A Copy Atte: B. A. M. Lemore C. C.

Birch

4

Dr } Slab: Piles

Myrick et al

S. W. Bishop Off

or

H. A. Myrick +

A. B. Thynick Defts
Trustee

In Chancery

1894, July 16. Process up to 2 July ruled.

" 21 " Rules Proposed & executed

Bill & Ex filed decrees
missi

" 1. Mich. Rules, Bill taken for
confession & cause
set for hearing.

Know all men by these Presents
that I Jacob T. Braden of
the County of Isle of Wight Shire
constituted, advised, and made,
and in my stead and place put
and by these presents do constitute,
advise and make and in my stead
and place put W. J. Schell of County
Virginia to be my true sufficient and
lawful attorney for me and in my
name and stead to sign my name
to a certain bond to be made and given
by S. H. Bishop of Southampton in
an injunction order by him against
the sale of a certain parcel of
land lying and situated in said
County of Southampton on which
said Bishop resides, under a cer-
tain deed of trust, for the benefit
of W. H. Myrick to A. R. Myrick, trustee,
giving my said attorney full power
and authority to do and perform
all and every act and thing what-
ever necessary to be done to and about
the premises or fully to all intents
and purposes as I might or could
do if personally present. hereby ratify-
ing and confirming all that my

said attorney a his substitute shall
lawfully do a Covenant to be done
by either himself

In witness whereof I hereby set
my hand and seal this 16th day
of February 1894

J. T. Bradshaw (seal)

Signer seals and delivers
in presence of
R. R. Edwards J.P.

Know All Men by These Presents, That we, *J. H. Bishop*

W. A. Myrick & A. R. Myrick Trustees
are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of

One 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, and also waive any claim, right or privilege to discharge any liability arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds of this State.

Sealed with our seals and dated this *16th* day of *February* A. D. 189*4*

THE CONDITION of the above obligation is such, that if the above bound *J. H. Bishop* who did on the *14th* day of *July* 189*4*, obtain from Judge *C. W. Hill* Judge of the Circuit Court of *Southampton* County, in *Chancery* in vacation an Injunction enjoining and restraining *W. A. Myrick & A. R. Myrick Trustees* their agents attorneys and all others from seeing a certain tract of land conveyed in a certain deed of trust, ^{a copy of which is} filed in the papers in this cause and marked "*A*", shall pay all costs and damages which the defendants may sustain by reason of the suing out of this order in case this injunction shall be dissolved.

shall faithfully discharge the duties of _____ 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.

J. H. Bishop

J. J. Bradshaw,

By W. D. Schree, his atty. in fact,



Bishop }
vs. } Statement of attorneys.
Myrick &c.

The matters involved in this suit have been fully and satisfactorily settled by and between the parties, and there is nothing further remaining to be done in the suit.

W. J. DeBell, p.g.
L. B. Pruner p.o.



Bishops

VS } Statement of costs
Myrick et als.

Bishop

W. } Statement of Costs

Myrick Hals

Sum. with injudion 50. Copy, 25. Another Sum. 50, Copy 25 = 1.40
Receipt for bath 36, atty. 10. Book. 18. Rule 50, fil. bill 15 = 1.29
Do. 24. 15, injudion 600 75. Rule 50, noting return 35 = 1.75
replication 15, Decem. 72.

J. M. Howard 57
\$5.31

1 continuance 25
1. Decem 72. Tax Costs 40, filing away papers 25 1.62

to wit \$6.93

Shff. .50

Serjt of Portsmouth .50

Law re. 16.50

\$24.43

Bishop }
rs. } Deane.
Myrick in alt.

March term 1896.
24th.

To be entered—

Robert D. Deane

Entered

Page 61—

W. D. Sebell, p. r.

Bishop

vs.

Myrick et al.

3
3
3

Decree.

This day this cause came on to be further heard upon the papers formerly read, and upon the written statement of the attorneys for the plaintiff and the defendant, and was argued by Counsel. On consideration whereof and it appearing from said statement that there is nothing further remaining to be done in this cause, it is ordered that the same be removed from the docket.

Bishop -

vs.

Order -

Myrick et al. On motion of the plaintiff in this cause, and for good cause shown, an injunction is awarded and granted to the said plaintiff, S. H. Bishop, restraining and enjoining the said W. A. Myrick, A. R. Myrick, trustee, their agents, attorneys and all others from selling or further proceeding to sell the real estate in the bill and proceedings mentioned, until the matter in controversy between the parties in this suit can be adjudicated in this Court. But the said S. H. Bishop, plaintiff, shall not be entitled to the benefit of this order until he shall have entered into bond, with approved security before the Clerk of this Court in the penalty of \$100.⁰⁰, conditioned according to law.

To the Clerk of the
Circuit Court of Southampton

C. P. Hill
Feb 14th 1894