

1902-07

Southampton County Chancery- Gurley, John M. vs Barden, Mary etals

to settle questions multiplying
on real estate.

Barden, Richard
" , Lydia
" Penny "

Gurley, John M.

Barden, Wm. Tr.

Johnson, Jordan

Cobb, Jesse

Vaughan, Oran

To the Hon. Richard H. Baker Judge of the
Circuit Court for the County of Southampton
in - In Chancery -

Humbly complaining sheweth unto your
Honor your complainant Ans W. G. Gurley that
in the year 1851 Wm Barden purchased a
tract of land lying in Southampton County
which was sold by a Commissioner under a
decree of this honorable Court rendered
in the Cause of Gordon v. Howell at the
Nov. term 1851. That the said Wm Barden
paid the amount of the purchase money to wit
\$600.25 and took possession of the said land
through the said Commissioner and executed
a deed to him therefor as directed, all
of which will appear from copies of the
decrees directing the sale and the decrees
confirming the Commissioner's report - here
with filed marked (A) and prayed to be
taken as parts of this bill. That a short
time after his purchase about the 1st of
January 1852 he sold the said land to
Adrian Johnson for the sum of \$600. for
which he took his bond with Bran Baugh-
an & J. Cobb his securities which is here
with filed as a part of this bill marked
(B). That the said Johnson took possession
immediately and has continued without

a deed in possession ever since. That in the
year 1854 the said ~~Wm~~ Barden died intestate
leaving a widow Mary Barden the
following children his heirs at law
Richard Lydia Williams (who has since
died & Mrs. W. Culey qualified as his
Adminisrator at the time 1856 of
the County Court of Southampton) and
Fanny Barden the last being an infant
of under years, and at the time 18
of the County Court of Southampton your
Complainant qualified as the Adm^r of
the said William Barden senior as Adm^r
heav from a copy of his certificate of
qualification here duly filed marked
(A) and prayed to be taken as a part of
this bill. That the said William Barden
in his life time never collected any part
of the land executed by the said Johnson
and that it is now in the possession of your
Complainant as Adm^r as afore said entirely
unsatisfied. That the said Johnson &
his premises the Sept Cobb & Oran Tan-
ghen are in default. That the said
Johnson proposes to surrender the said land
to the heirs of the said Barden and to pay
a fine per cent, to wit \$25 a year for the time
he has occupied it, in consideration that

your Complainant will release to him the said bond; and this arrangement would be much to the advantage of the heirs and distributors of the said William Barden senior in as much as they would thereby receive in addition to the said land a fair rent for some years, while if the Collection of the said bond is enforced there is no property out of which it can be made except the said land.

But your Complainant is advised that he has no power to make such arrangement without the authority and sanction of a Court of Equity. In and in Consideration of all which, and in as much as your Complainant is without remedy in the premises except in a Court of Equity where Masters of this kind are cognizable. To the end therefore that justice may done he prays that Mary Richard, Lydia, and Perry Barden, Esq. of Surry, as M^r of W^m Barden Junior. Jordan Johnson Jesse Cobb and Owen Taygham may be made Defendants to this bill and answer the allegation thereof. That some fit & proper persons may be appointed guardian ad litem to the infant Defendant

That on the payment of \$100 per cent. and
to delivery of the said Land to the heirs of
Wm Barden senior your complainant
may be authorized to deliver up the said
land to the said Johnson, and that
the Court will grant such other and
general relief the premises as equity
may dictate, and as in duty bound
will ever pray so may it please the
Court &c.

Chambliss & Wessenberg
for complainant.

The answer of Penny Barden by L. H.
Edwards her guardian ad litem to a bill
of complaint filed against her &c.
by Mrs M. Guiley -

This Defendant saving & preserving so
for answer to the said bill as much
thereof as she is advised it is necessary &c.
material she should make answer but
answering said that she believes the facts
stated in the bill are true

Barden's ad n^r

or F

3. Cane

Barden's p.

Specimen by in summer
sent for S. Reio. by
accompanying a copy to each
one.

A. Copy

Commissaries Office

Jerusalem Aug. 16th 1856

To John W. Guley Com^r: of W^m Barden
de Plaintiff. and Mary Barden, Richard,
Lydia & Fanny Barden by J. R. Edwards
his guardian Ad litem. John W. Guley
Com^r of W^m Barden vs. Jordan Johnson,
Jesse Cobb & Orran Vaughan. Defendants.

You are hereby notified, that I have
fixed upon the 30th day of August - present
(1856) to enquire and ascertain the amount
of purchase money due from the said
Jordan Johnson on account of the said land
together with an account of the rents
and profits of the said land since its oc-
cupation by the said Johnson, at my office
in Jerusalem. required to be taken by the
decree of Southampton Circuit Court
entered at May, 1856 in a suit in Chan-
cery depending in said Court, in which
you are parties, plaintiff and defendants:
at which time and place you are re-
quired to attend.

Given under my hand as Commissaries in
Chancery of the said Court - the day &
year first aforesaid.

To the Sheriff of
Southampton County to execute
Henry S. Howard Com^r A Copy test. H. S. Howard Com^r

Baileys adms^d
vs Com:
Baileys & Co Repub-

1856. Oct 1

A Copy

John M. Gurley administrator of William
Bairden deceased Plaintiff

Against

Mary Bairden, Richard Lydia + Penny Bairden, John M. Gurley Admin^r of W^m Bairden Jr., Jordan Johnson, Jesse Cobb + Evan Vaughan Defendants.

An Account of the amount due from
Jordan Johnson in account of the land
in the proceedings in this cause mentioned

1852
Feby

17

By amount due by Jordan Johnson for
the purchase of a tract of land
from W^m Bairden by bond four
months after date.

\$600.00

1852

Aug

30

By Interest thereon from date (the 17th day)
of February 1852 to this day

163.28

By amount due this day

\$763.28

By interest on \$600.00 paid
there of from this day till paid

An account of the rents and profits of the land in
the proceedings mentioned since the occupation
by the said Jordan Johnson.

1852
Aug

30

By estimated rents & profits of said land from
the 17th Feb^y 1852 to date at \$20 per annum

\$113.39

Respectfully submitted
Henry S. Howard Com^r.

Commissaries Office
Jerusalem, September 22 1856
To the Circuit Court of Southampton County
Pursuant to a Decree of the Circuit Court
of Southampton County, rendered at the May
Term 1856 in a suit in Chancery depending
in the said Court between John M. Guiley
as administrator of William Barden dec^d plain-
tiff and Mary Barden, Richard Lippia &
Penny Barden. John M. Guiley, adm^r of W^m
Barden Jr. Jordan Johnson, Jesse Cobb and
Orran Vaughan Defendants, the undersigned
one of Commissaries, of the said Court to
whom was referred by said Decree to enquire
ascertain and report the amount of purchase
money due from the said Jordan Johnson on
account of the said land together with an
account of the rents & profits of the said land
since its occupation by the said Johnson,
reports to the Court that on the 16th day of
August 1856 he issued notices against
the several parties aforesaid requiring them to
attend the settlement of the said accounts
before him at his said office on the 30th
day of August 1856, which were returned

is your Commission duly executed. That the plaintiff and Isaac Johnson appears before the Commission in obedience to the said notice, and he there upon from the bonds by the plaintiff against the said Johnson ascertained the amount due for the purchase of the said land by the said Johnson up to the 30th day of August 1856. To be \$763.28 & with interest on \$600.00 from the said 30th day of August 1856 - little paid, and he ascertained the amount of the rents and profits of the said land since its occupation by the said Johnson from the evidence before to be \$113.39 up to the said 30th day of August 1856 -

The Commission further reports to the Court that after the completion of the said account: he retained the same in his office ten days for the examination of the parties, which with the decree & notices aforesaid and the evidence relating thereto are herewith retained.

Given under my hand as Commission aforesaid the day and year first aforesaid.

Henry S. Howard Com^r.

Commissioner's fee \$10.00 }
Charged to the plaintiff }
Sheriff's \$4.50 - }

Commissioner - A Copy Left J. B. Pinner 66

Baden & Adams
in { Report
Baden &

1858. Dec 22

Alcopy

Baden's admsr
or 3 report-
Baden &

The undersigned Curm reports
that pursuant to the order entered
in this case at the Nov: Term 1857
he collected the bond against Abraham
Middich and Geo W Pute therein men-
tioned amounting with interest to
\$656.25 and has paid over the same
as directed to Jno M. Guley admsr
of William Baden and as wife
appears by said Guley. Vtft herewith
returned attached.

Respectfully Submitted
E. Mosserberg

a copy.

Teste

L. B. Prince C. C.

Baileys Com^{rs}
vs { Com^{rs} Report
Baileys Co

1857. Nov 7

A copy

Baileys adm^t against Baileys & Co. Report of
Commissioner -

The undersigned Special Commissioner re-
ports that in obedience to the Secretal order
issued in this cause at the Nov Term 1856
he proceeded to sell the tract of land there in
designated to the highest bidder and that
Abram Riddick became the purchaser for
the sum of \$675. That the Commissioner
reserved of the said sum \$50. to defray the
expenses of sale, only \$32.12 being actu-
ally required for that purpose, which was
paid out as follows - Auctioneers five dollars,
printer two dollars & seventy-five cents;
Commissioner twenty five dollars & thirty
seven cents, the balance of the cash pay-
ment (\$17.88) is now in the hands of the
Commissioner. That for the refused pay-
ment he took the note of the said
Riddick payable twelve months after
date for \$625. with Gen. W. Peck Security
dated Aug 3rd 1857 which is here with
return. All of which is respectfully
submitted. Nov. 4th 1857.

E. W. Whapenburg
Special Commissioner -

A Copy Test I. B. Prince C. C.

Baden }
or } answer
Baden }

The answer of Mary & Richard Gardin
to the bill of complaint filed against
them and others by Mrs W. Gurley as W^{rs}
of W^m Gardin.

These Defendants saving and
reserving as for answer to the said bill
or so much thereof as they are advised
it is material or necessary they should
make answer unto, answering say, that
they believe the facts stated in the said
bill are true, and having answered they
pray hence to be discharged with their
costs &c.

Chambliss & Masswburg
for Defs:—

A Copy

Test

J. B. Prince C. C.

Baldwin's store
in the Cedar Bond
Baldwin

copy

Now all men by these presents that we
Eumassenburg & Jos D Massenburg are hees and
fully bound unto Commonwealth of Pa in the just and
full sum of \$1200 good and lawful money of the U.S.
to payment whereof well and truly to be made we bind our-
selves, our heirs &c. jointly severally by these presents.
Sealed with our seals and dated this 16. day Sept.
1858.

The condition of the above obligation is such that
whereas by a decree of the Circuit Court of Richamp-
ton Co. entered on 7th Nov 1857 in a suit therein
depending between Barren's adms. and May
Barren & others clefts, the above bound Eumassen-
burg was appointed special comr. for purposes
therein mentioned, now if the said Eumassen-
burg shall faithfully discharge his duties as
such comr. then the above obligation to be
void, else to remain in full force and
virtue -

Eumassenburg (seal)
J D Massenburg (seal)

a copy.

Teste

L B Price C. C.

Barber vs

as

3 Decree.

Barber vs

This day this cause came on again to be heard on the papers formerly read and on the report of Comm^r Howard made pursuant to the order of May term last to which report there is no exception and was argued by counsel, on consideration whereof the Court confirming the said report doth as judge order & decree that unless the Defendant John Johnson do within sixty days from the date hereof pay to the Pltff the sum of \$763.28 with interest on \$600 part thereof from August 30th 1856. Then that E. W. Massenburg who is hereby appointed a special Commissioner for that purpose do after having advertised the time and place of sale for three weeks successively in one of the newspapers printed in the City of Norfolk and at two or more public places in the vicinity of the said land proceed to sell the said tract of land in the bill mentioned at public auction to the highest bidder, and after receiving so much in cash as may be required to defray the expense of sale for the balance of the proceeds of such sale take a bond payable twelve months after date and return the same with his report to Court. But the said E. W. Massenburg is not to proceed to act unless this

Secrec as such commiseration until he shall
have entered into bond with sufficient secu-
rity in the Clerk's office of this Court paya-
ble to the Commonwealth of Virginia in the
penalty of \$1000 - conditioned for the
faithful discharge by him of his duties
as such commiseration -

A Copy Teste

J. B. Prince C. C.

Barber ad^m
or
Barber } Deere

To be returned
N. H. Barber
Nov. 1856

A. Barber

Bardeen Adams
in § Decree

Bardeen &c

May 26 1859

Where entered

NH Baker

a copy.

Bardeen's answer
or ⁴/₃ Decree.
Bardeen &

This day this cause came on again
to be heard on the papers formerly read
and the report of Comr. Massenburg
made pursuant to the order of Nov Term
1857, to which report there is no exception
and was agreed by Counsel, on considera-
tion whereof the Court doth approve order
and decree that the said report be
confirmed

a copy, Teste

J. B. Pruice C. C.

Barden's answer

on $\frac{1}{2}$ December

Barden &

Who entered

W. H. Baker

Nov. 1857

a copy.

Bardeen's admr

or 3 Decree

Bardeen &

This day this cause came on again to be heard on the papers formerly read and on the report of Commr. Massenburg made pursuant to the order of the November Term 1886, to which report there is no exception, and was argued by Counsel, on consideration whereof, the Court confirming the said report, doth a Judge order and decree that Commr. Massenburg pay to Jas M. Gurley admr of Wm. Bardeen the sum of \$17.88 reported to be in his hands in cash, and that the said E. M. Massenburg who is hereby appointed a special Commr. for that purpose receive from the Clerk of this Court the said bond against Chas. Riddick and Geo. W. Kete and collect the same as soon as it shall be due and when collected execute a deed with special warranty to the said Riddick for the said land.

Wm. H. H. Teste.

J. B. Prince C. C.

Baident }
is } Deere
Baident }

To be entered
N.H. Baber
May 3-1886

A Copy

Barden's adm^{rs}

vs

Barden &c

} Decree

This day this cause came on to be heard on the bill taken for confessed as to the Defendant-Gurley adm^r of W^m Barden for Johnson Vaughan Cobb and Lydia Barden on whom process had been served they still failing to appear and plead answers and demurs to the said bill on the answer of the Defendants Richard and Mary Barden this day filed by leave of Court the answer of the infant Defendant by L. R. Edwards their guardian ad litem with replications to the said answers and on the exhibits filed and was argued by counsel. By consideration whereof the Court took a judge order and Decree, that one of the Commissioners of this Court enquire ascertain and report the amount of purchase money due from the said Doran on account of the Land, together with an account of the rents & profits of the said Land since its occupation by the said Johnson —

A Copy — Teste J. B. Prince C. C.

Williams, et als,

vs. Decree.

Willaims, et als.

October 7, 1902,

Enter this-

Robert R. Huntis

Entered,

Page, No. 449.

Willaims et als

vs. Decree.

Williams et als.

The purposes for which this suit was brought having been accomplished, it is order ~~that~~ it be removed from the docket, with leave to be reinstated by any interested party, on motion, within twelve months.