

1903-26

Southampton County Chancery - Virginia Sash and Door Co. vs Johnson, W. E. et al

sums to get lien -

Case resolved

Harris, J. N.

La. Sack & Co.
vs. 3 Bill.
W. E. Johnson et al.
~~~~~

Kenneth A. Bain,
ATTORNEY AT LAW
Portsmouth, Va.

To the Hon. Robert R. Prentiss, Judge of the Circuit Court for the County of Southampton, in the state of Virginia.

The Virginia Sash and Door Company, a corporation chartered, organized, and existing under the laws of the state of Virginia, with its principal office in the county of Norfolk in said state, complaining of W. E. Johnson and J. N. Harris, shows unto your honor the following case,---

That the said W. E. Johnson is a citizen of the town of Ivor, in the county of Southampton and state of Virginia, and is now, and was at the times hereinafter stated, and prior thereto, seised in fee-simple of a certain lot or parcel of land situated in the said town of Ivor and bounded on the south by the main road leading from Ivor to Courtland, on the west by the land of R. M. Herrin, on the north by the land of B. F. Bell, and on the east by the land recently sold by the said Bell and wife to J. W. Lawrence, the said lot being more particularly described as follows, to-wit: Beginning at an iron pin on the county road at the corner of the R. M. Herrin lot and running down said road in nearly a north-easterly direction a distance of fifty feet, thence in nearly a north-westerly direction a distance of three hundred and eighty-two feet to a large ditch, thence along said ditch in nearly a southerly direction fifty-four feet, and thence in nearly a south-easterly direction three hundred and sixty-four feet to the beginning, being the same lot or parcel of land that was conveyed to the said W. E. Johnson by the deed of B. F. Bell and wife bearing date on the 16th day of April, 1901, and duly of record in the clerk's office of the county court of Southampton county aforesaid.

That the said J. N. Harris is a citizen of the county of Norfolk in the state of Virginia and a contractor and builder by occupation, and in the first part of the month of June, 1901, or thereabouts, entered into a contract with the said W. E. Johnson to furnish the material and labor necessary for the construction of, and to construct and complete for the said W. E. Johnson, a frame dwelling house building upon the lot of the said W. E. Johnson hereinabove mentioned and described, but the terms, conditions, and considerations of said contract are not known to your orator.

The said J. N. Harris pursuant to the said contract duly constructed and completed for the said W. E. Johnson the said building upon the lot of the said W. E. Johnson as aforesaid and in order so to do entered into a contract with your orator whereby your orator at the special instance and request of the said J. N. Harris agreed to furnish him for use in said building certain materials specifically set out in the account and

xxx statement hereinafter mentioned and filed as an exhibit with this bill, and pursuant to said last named contract your orator did between the 8th day of July, 1901, and the 5rd day of August, 1901, inclusive, ~~and~~ furnish to the said J. N. Harris the said materials amounting to the sum of sixty-one & 76/100 dollars, in consideration whereof the said J. N. Harris promised to pay to your said orator the said sum of sixty-one & 76/100 dollars and interest thereon from the 5rd day of August, 1901, yet the said J. N. Harris has not, nor has anyone for him, paid to your orator the said debt or any part thereof, although often requested so to do, but has steadily refused to pay said debt and the same remains unpaid and owing to your orator in full.

Your orator avers that the said materials were furnished to the said J. N. Harris to be used and were actually used in the construction of the said building, and that your orator became and was a subcontractor with the said J. N. Harris who was the general contractor with the said W. E. Johnson, owner of the said premises, and as such entitled to all the lien rights accorded to subcontractors under the laws of the state of Virginia.

Your orator further avers that on the 11th day of October, 1901, sixty days not having then elapsed since the completion of said building or the termination of the work thereon, in order to perfect a lien upon the premises aforesaid, pursuant to sections 2475, -6, and -7, Code of Virginia, 1867, and the legislative enactments amendatory thereof, your orator filed in the clerk's office of the county court of the said county of Southampton an account and statement, commonly called a mechanics lien, claiming a lien upon the building and lot aforesaid to the extent of its said debt, which said account and statement are now filed with this bill as "Exhibit P,1" and asked to be read herewith as a part of the same; and your orator likewise avers that notice in writing of the filing of said mechanics lien was duly served upon the owner of the property, the said W. E. Johnson, and a copy of said notice with the officer's return of service endorsed thereon is filed with this bill as "Exhibit P,2".

By reason of the facts above stated your orator alleges that it has a subsisting lien upon the building, lot, and premises hereinbefore mentioned and described, for the enforcement of which it is forced to invoke the aid of this court.

Wherefore, and for as much as your orator is without remedy save in a court of equity where such matters are alone and properly cognizable, your orator prays that the said W. E. Johnson and J. N. Harris may be made parties defendant to this bill and required to answer the same but answer under oath is hereby waived, that proper process may issue, that your orator may be decreed to have a lien upon the said building, lot,

and premises, to the amount of its debt and interest as aforesaid, and the costs of perfecting its said lien, that the said lot, building, and premises may be sold and out of the proceeds of sale thereof may be paid your orator's said debt, interest, and lien costs, together with all costs incurred by this suit, including a reasonable attorney's fee to your orator's counsel for prosecuting this suit, that the said defendants may be decreed to pay all proper and necessary costs by this suit incurred, and that your orator may have all other further, special and general relief as the nature of its case may suggest or to equity shall seem meet.

And your orator will ever pray etc.

Wm. Sash & Dorr Co
by John J. Robinson V. Pres.

H. A. Bain, Jr.

Virginia Sash & Door Co.
vs. 3 Mchrs. Lien

W. E. Johnson.

1901. Oct 11. Dec? ^{AR}

Exhibit P. 1.
filed with
plaintiff's bill.

Recorded in "Mechan-
ics Lien Book #11.

Page 144

Fee paid.

BOUGHT OF Virginia Sash & Door Co.

Sash & Door Co.

vs.

Mechanics Lien.

W. E. Johnson

QUEEN STREET, NEAR JILSTING.

The Virginia Sash and Door Company, a corporation chartered and existing under the laws of the state of Virginia, with its principal office in the county of Norfolk, in said state, hereby sets out the following account showing the amount and character of the materials furnished by said company to J. N. Harris, general contractor with W. E. Johnson, owner, the prices charged therefor, and the amount now due and owing for said materials, no payments having made thereon:--

against the same.

Kenneth A. Paen
Notary Public.

Portsmouth, Va.,

190

Mr J. N. Harris *W. E. Johnson's House*
 BOUGHT OF *Door Co* **Virginia Sash & Door Co.,**

DEALERS IN

SASH, DOORS, BLINDS, SLATE AND CABINET MANTELS,
Tile, Grates, Builders' Hardware, Etc.

QUEEN STREET, NEAR CHESTNUT.

Phone

1901

July	8	15 Gals Linsud Oil	1200	
		2 1/2 - Dryer	100	
		100 lbs White Lead	600	
		6 Porch Col. mat	60	
		6 ps 6x6x9 H-Dr	112	
		325 ft 1/4 H-Flz	325 487	1461
15		700 - 2" Red mldy		
		300 - 1/4" gr Ro.		
		250 - 1 1/2" o.g.		
		225 - Parting Red mldy		
		225 - Stop		
		250 - 2" Band		
		20 ps 7/8x6x16 mch Dr	1070	
26		20 Porch Bal 1 3/4	160	
		1 Door 2-8x6-8 1 1/8	160	
		Drayage to Norfolk	50	
29		2 Win 2-4 1/2x3-2 1/4	250	
		15 ft Sash Rail	25	
		2 Bracket 3'-0x4-8		
		2 ps 2x3x8 mch Dr		
		2 - 7/8x4x8		
		4 - 7/8x12x8		
		48 ft 1 1/2 Red mldy		
		22 Bulbustors	850	6036
Aug	3	9 Gals		140
				6176

State of Virginia, City of Portsmouth, to-wit:

On this 10th day of October, 1901, personally appeared before me, Kenneth A. Bain, a notary public for the city and state aforesaid, in my said city, John J. Robinson, Vice-President, Manager, and Agent of the Virginia Sash and Door Company, and made oath that the foregoing account is just, true, and correct, that the said sum of \$61.76, as set out in said account, is verily due and owing by the said J. N. Harris to said company, and that there are no offsets against the same.

Kenneth A. Bain
 Notary Public.

The said Virginia Sash and Door Company hereby declares that the materials set out in the foregoing account were furnished by it to the said J. M. Harris, general contractor with W. E. Johnson, owner, for the construction of a two-story frame dwelling house building for the said W. E. Johnson in the town of Ivor, county of Southampton and state of Virginia, to be used in and upon and that the same were actually used in and upon the said building, which said building has not been completed sixty days next before the filing of this writing; and the said Virginia Sash and Door Company hereby claims a lien to the amount of sixty-one and 76/100 dollars, with interest thereon from the 3rd day of August, 1901, until paid, upon said building and so much land therewith as shall be necessary for the convenient use and enjoyment of the premises, the property upon which said lien is claimed being briefly described as follows, to-wit:

That certain piece or parcel of land, with its appurtenances and improvements, owned by the said W. E. Johnson, lying and being in the town of Ivor, in the county of Southampton and state of Virginia, situated on the west side of the main road leading south from Ivor, bounded on the north by the land occupied by George Lawrence's store and on the south by the property of R. M. Herring, the said piece of land being a part of what is known as the Ben Bell tract.

Witness the signature of the said Virginia Sash and Door Company by John J. Robinson, its Vice-President, this 10th day of October, A.D. 1901.

VIRGINIA SASH & DOOR COMPANY,

by John J. Robinson
its Vice-President.

State of Virginia,

City of Portsmouth, to-wit:

I, Kenneth A. Bain, a notary public for the city and state aforesaid, do certify that John J. Robinson, whose name is signed to the foregoing writing bearing date on the 10th day of October, A.D. 1901, as Vice-President of the Virginia Sash and Door Company, has acknowledged before me in my said city that he signed said writing for, and in the name of, and by authority of said company.

Given under my hand this 10th day of October, 1901,

Kenneth A. Bain
Notary Public.

ndou 2919 pni iqiu.

Родосcripta.

M. Harris,
The said
M. Harris.

Notes

[illegible]

[Faint, illegible handwriting throughout the page]

Take notice that the Virginia Sash and Door Company, of Henrico
County, Southampton County, Virginia.
to W. E. Johnson, Esq.,

October 10th, 1801.
Portsmouth, Virginia.

Portsmouth, Virginia,

October 10th, 1901.

To W. E. Johnson, Esq.,

Ivor, Southampton County, Virginia.

Take notice that the Virginia Sash and Door Company, of Norfolk County, Virginia, has filed a mechanics lien in the sum of sixty-one and 76/100 dollars, and interest thereon from August 3rd, 1901, until paid, upon your property in Ivor, Southampton County, Virginia, consisting of a two-story frame dwelling house building and so much land appurtenant thereto as shall be necessary for the convenient use and enjoyment of the premises, the said premises being situated on the west side of the main road leading south from Ivor, bounded on the north by the property occupied by George Lawrence's store and on the south by that of R. M. Herring.

The said dwelling house has recently been constructed for you by J. N. Harris, general contractor, and the said lien is for material furnished him by said company to be used in and actually used in and upon said building.

Respectfully,

*Virginia Sash & Door Co.,
By A. A. Bann, Atty for
Said Company*

October 10th, 1901
Portsmouth, Virginia

LAW OFFICE OF
KENNETH A. BAIN,
408 COURT ST.,
PORTSMOUTH, VA.

COMMISSIONER IN CHANCERY
OF THE
COURT OF HUSTINGS.
NOTARY PUBLIC

Portsmouth, Va., Feb'y 6th, 1902.

Mr. L. A. Gay,

Clerk Southampton County ~~Court~~ *Circuit Court*
Courtland, Va.

Dear Sir:

I hand you enclosed herewith the Bill in the case of Virginia Sash & Door Co. vs. W. E. Johnson et al., the mechanics lien and notice thereof duly served upon Johnson which are filed as exhibits with the Bill, and the summons against O. W. Harris with the officer's return of service endorsed thereon. I intended to send all these papers to you on Monday but was sick in bed on that day and have been continuously so situated since and until today when I am able to be out for a short while.

I also enclose postal upon which you will kindly acknowledge ~~XXXXXX~~ receipt of papers and assure me of the filing of the same.

Yours truly,

K. A. Bain

K. Sash & Son Co.

vs. }

SUBPENA
IN CHANCERY.

Johnson W. L. et als

K. A. Bain

p. q.

To 1st February Rules.

1902 Circuit Court.

Executed February 3, 1902
by delivering a copy of this Sum-
mons to W. L. Johnson

J. H. Williams
Clerk

(1)

The Commonwealth of Virginia,

To the Sheriff of the County of Southampton Greeting:

WE COMMAND YOU, That you summon W. E. Johnson and J. M. Harris

to appear at the Clerk's Office of the District Court of the County of
Somerset at the rules to be held for the said court on the 1st Monday in
February 1902, to answer a bill in chancery exhibited against them
in our said court by Virginia Sash and Door Company
a corporation existing under the Laws of Virginia.

And have then there this writ. Witness L. A. Gay, Clerk
of our said court, at the courthouse, the 26th day of January 1902, and
in the 126 year of the Commonwealth.

Teste: L. A. Gay C. C.

285-
2

590

Form No. 300 1/2

Vs. Sarah & Dora Lee.

vs.

}

SUBPENA
IN CHANCERY.

John W. E. et al.

K. A. Bain

p. q.

To 16. February Rules.

1902. Circuit Court.

Not finding the within named J. M. Harris at his usual place of abode, I served this writ on the 30th day of January, 1902, by delivering a true copy of the same to L. M. Harris's wife of the said J. M. Harris, found at the usual place of abode of the said J. M. Harris at Pinnera Point in Norfolk County, Virginia.

W. C. Cronin
Sheriff

By W. S. L. Lutz
Deputy Sheriff

J. M. Harris

The Commonwealth of Virginia,

To the Sheriff of the County of Norfolk Greeting:

WE COMMAND YOU, That you summon J. H. Harris

to appear at the Clerk's Office of the Circuit Court of the County of
Surrey at the rules to be held for the said court on the 15th Monday in
February 1902, to answer a bill in chancery exhibited against him et al
in our said court by Virginia South and Son Company,
a corporation existing under the laws of Virginia

And have then there this writ. Witness L. A. Gay, Clerk
of our said court, at the courthouse, the 25th day of January 1902, and
in the 126 year of the Commonwealth.

Test: L. A. Gay by

Portsmouth Va.
April 9th, 1902.

Mr. L. A. Gay,
Ck. Circuit Ct. Southampton Co.,
Courtland, Va.

Dear Sir:

Kindly inform me by return mail whether other chancery suits have been instituted in your court against W. E. Johnson other than that of the Va. Sash & Door Co. against him and since or about the time of the institution of this suit, - or whether any party or parties have come in by petition in the said suit of Va. Sash & Door Co. v. W. E. Johnson, and the name of such party or parties that may have been so joined - Also write me amount of costs to be paid if said suit is dismissed now.

A prompt reply will greatly oblige,
Yrs. very truly,

K. A. Bain,
Atty for Va. Sash & Door Co.

vs. Sack & Sons Co.

vs. } Stat: of Rules

Johnson W. B. et al

Virginia Sash and Door Company
a corporation existing under laws
of Virginia } Plaintiff
vs. } In
chq.

W. E. Johnson & J. N. Harris } Defendants

1902. 25th January. Process issued to 1st Febry. Rules

1902. 1st Febry. Rules. Process returned executed

as to W. E. Johnson and not
returned executed as to J. N. Harris

Bill not filed.

1902. 2nd Febry. Rules Process executed as to J. N. Harris.

Bill & exhibits filed.

Decree nisi vs Defendants

1902. 1st Mch. Rules. Bill Taken for confessed

and cause set for hearing.

Circuit Court of
Southampton Co.

Virginia Sack and
Doan Co.

✓
W. E. Johnson.

Decree dismissing
Suit.

Entered April 7, 1903
Robert R. Huntis

Entered page
No. 1.

VIRGINIA, —

In the Circuit Court of the County of Southampton.

Virginia Sash & Door Company

v.

In Chancery.

W. E. Johnson.

Upon the motion of the plaintiff, the Virginia Sash & Door Company, by counsel, and upon the statement of counsel that the matters in controversy between the said plaintiff and the defendant W. E. Johnson have been settled out of court, and that the said plaintiff does not desire to prosecute its suit against the said defendant, it is adjudged, ordered, and decreed that this suit be, and the same is hereby, dismissed, and the clerk of this court is hereby ordered to remove the same from the docket.