

1909-71

Southampton County Chancery - Midgett S.D. vs Harcum, Orris W. et al

Divide land if practicable,
if not sell & divide proceeds.

Whitley, W. H.

" , Laura D.

Harcum, Noah

" , Annie T.

" , Julius G.

" , John

McLemore, T. L.
(G. A. L.)

Middelt

nr 3 Bice v^e

Harcum v^e 149

2 Oct Rubb

Primer Schiese 82

To the Hon George Judge of the Circuit
Court of Southampton Co. In Chancery.
Complaining Sheweth unto your
Honor your complainant S. D. Mudgett as
follows. That some two years ago William
Crum & Octavien executed to B. B. Win-
borne trustee a certain tract of land in
Southampton Co, in trust to secure cer-
tain indebtedness to your complainant
as will more fully appear from a certi-
fied copy of said trust deed herewith
filed as Exhibit 'A'. That default being
made in the payment of the debts secured
under said trust deed, sale of the land
thereby conveyed was made by the trustee
in conformity to the provisions of said deed
during the last Winter and at said
sale your complainant became the
purchaser and has received a deed
from the trustee, a copy of which will more
fully appear from a certified copy of
said deed filed herewith as Exhibit 'B'.
That there are other parties who have
an undivided interest in the said
tract of land, to wit Isaac N. Hareem,
Annie T. Hareem, Julius G. Hareem
and John Hareem, all minors, and
Oris Hareem and Laura O. Whitch, former

Hareem and ~~James~~ ^{W.H.} Whittly her husband,
who are adults. Your complainant
charges that said land is susceptible
of partition among the parties entitled,
but if it be not, then he wishes the same
sold, and the proceeds divided
among the parties according to their
respective interests. In consideration
of all which and inasmuch as your
complainant is without remedy left
in a Court of Equity where such mat-
ters are properly cognizable - to the end
therefore that justice may be done he
prays that Orris W. Hareem, ~~James~~ ^{W.H.} Whittly
and Laura D. Whittly his wife ~~may~~ ^{are} be
adults, and Frank N. Hareem, Annie
T. Hareem, Julius G. Hareem and John
Hareem, all minors, may be made
parties defendants to this bill and
compelled to answer the allegations
thereof. That some fit and proper person
may be assigned Guardian ad litem
to defend the interests of the infant
defendants. That the said land may
be divided, if the same is practicable,
but if not, that an order may be
entering directing a sale of the same

cora &

and proper distribution of the proceeds.
and that your Honor will grant such
other, further, general & special relief
as to Equity may seem meet on the nature
of the case may require, and as in and
about to. May it please the Court &c.

Primer & Schree pg

The joint and several answer of Noah,
Annie T. Julius G. and John ^{Conroy} Hareem
~~to said~~ minors, by J. L. McLenane their
Gonad litem, to a bill of complaint
exhibited in the Circuit Court of South-
ampton Co. against themselves and
others by S. D. Middle.

These respondents, saving and reserving
&c. for answer to said bill say. That
they are minors and know very little
about the facts as set forth in said bill.
They therefore submit their rights to the
protection of this Court. And having
answered they pray hence to be dis-
missed &c.

Jas. L. McLenane
Gonad litem

Medgett 161
Stat. Rules.

Har cum et als;

1 Oct. R

S. D. Mudgett -

Plff.

against

John Starcun. Annie Starcun. Julius
Starcun. Noah Starcun. and W. Henry
Whitley & Lucora D. Whitley (formerly
Starcun.) his wife.

Defts

1890. Oct. 1. Process up? to 1 Oct. Rules.

" 1st Oct. Rules. Process ret? Executed.

Bill & Ex. filed. J. L. M. Lemad
appt. Gen as litem. Answer of
infants by Gen as litem. filed.
Gen. rep & decree nisi.

" 2nd "

" Bill taken for confessed as
to adults. & Cause set for
hearing.

This Deed of Trust made this the 23rd day
of October 1888, by C. W. Harcum W. W.
Harcum and his wife Mary D Harcum
of Southampton County State of Virginia
parties of the first part, B. B. Humber of
Hertford County State of North Carolina
party of the second part and J. J. Oakham
trustee of the effects of S. D. Mudgett of said
Hertford County party of the third part.
Witnesseth, That whereas said C. W. Harcum
and W. W. Harcum are indebted to said
J. J. Oakham Trustee aforesaid in the sum
of one thousand dollars evidenced by
the six bonds of said C. W. Harcum and W. W.
Harcum as follows, one for one hundred
dollars, due and payable January 1st 1889
and four for two hundred dollars each
due and payable respectively on the first
days of March May July and September
1889 and another for one one hundred
dollars due and payable on the 1st day of
October 1889. Each of said bonds bear
even date with this trust and bear 6%
interest from Nov 1st 1888. The said first
parties desire to secure the payment of said
bonds by a conveyance of the property here-
inafter described.
It was therefore by the said parties of the

first part for and in consideration of the premises and the further consideration of one dollar to them paid by said party of the second part the receipt whereof is hereby acknowledged have bargained sold and conveyed to party of the second part and his heirs the following described real and personal property to wit: The Engine and saw Mill and fixtures tools and the like this day purchased by said O. W. Harcum and W. W. Harcum from the said party of the third part and known as the Medgett saw Mill property now situated in the County of Hertford aforesaid. And the right title and interest and estate of the said parties of the first part in the tract of land in Southampton County State of Virginia, where the said W. W. Harcum and wife Mary R. Nixon, reside and adjoining the lands of Asa Vaughan Jesse Gardner Allen H. Patton and others, lying on the East side of the public road from Smiths Ferry to Courtland and containing 87 acres more or less, and the said W. W. Harcum further conveys the two horses and the mules now in his possession.

To have and to hold said described real and personal property to him and his

heirs upon the following trust, that is to say, that if said first parties shall well and truly pay or cause to be paid said bonds as they fall due, then this trust to be void, and the title to said property to revert in said named parties. But if they shall fail to pay either of said bonds as they become due and payable then it shall be the duty and power of the said party of the second part to seize said personal property and enter upon said land and after thirty days advertisement at the Court House door at Courtland and three other public places in said County or in lieu thereof for four successive weeks in some newspaper in said County of Southampton, sell said property at public sale for cash, collect the purchase money convey the same to the purchaser or purchasers, and apply the proceeds as follows. First to the payment of all expenses of foreclosing this trust including 5% commissions for the trustee. Second to the payment of the amount due on all of said bonds, and the surplus to be paid to said first parties as they may be entitled. Witness our hands and seals this the day and year first above written.

(over)

C. W. Harcum Seal

W. W. Harcum (Seal)
Mary R. Harcum (Seal)

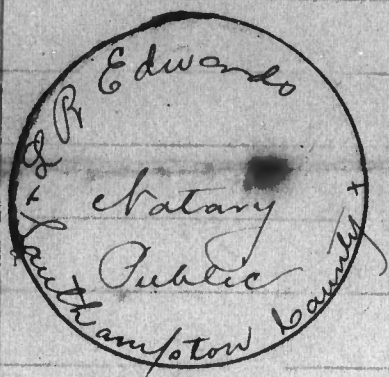
State of Virginia
County of Southampton.

I L. R. Edwards Notary Public
for Southampton County aforesaid in the
State of Virginia, do hereby certify that
C. W. Harcum and W. W. Harcum & Mary
R. Harcum his wife ~~of~~ whose names are
signed to the writing above bearing date
23rd day of October 1888 personally appeared
before me in my said County have ac-
knowledgeed the same before me in my
County and State aforesaid, I do also
certify that Mary R. Harcum the wife of
W. W. Harcum whose names are signed
to the writing above bearing date on the
23rd day of October 1888 personally appeared
before me in my said County and being
examined by me privily and apart from
her husband and having the writing aforesaid
fully explained, to her she the said
Mary R. Harcum acknowledged the said ~~act~~
writing to be her act and declared that she
had willingly executed the same and does
not wish to retract it.

Given under my hand and official seal
this the 1st day of December 1888,

L. P. Edwards

cl. P.



Southampton County. In the Clerk's Office
Nov 5-1888.

The foregoing Deed of Trust from C. M. Hanson
et al to J. J. Oakham's Trustee was this
day received and with certificate annexed
admitted to record

Teste

B. F. McLenore C. C.

A Copy Teste

B. F. McLenore C. C.

Statement of Costs.

Midgett v. Harcum.

Jan 20. Cop 60. - 28. 18. 1.00. 35. 15. 15.

15. 72-40. 25. 25. Copy Ex. 2.00. 36.

bill 7.24

Shff \$ 4.00

Law 16.50

\$ 27.54

2.50

Comm'n

Shff.

This conveyance made this the 2nd day of March 1890, by B. B. Winborne, trustee to S. D. Kidgett both of Hertford County, Co. W. Va. Witnesseth: That the said B. B. Winborne did on the first day of March 1890, in front of the Mayor's Office in the Town of Franklin in the State of Virginia by virtue of the provisions of a certain deed of trust executed on the 23rd day of October 1888 by G. W. Harcum and W. W. Harcum and his wife Mary C. Harcum to said B. B. Winborne as trustee, for the benefit of J. J. Oakham truste did after first advertising the time and place of sale for four successive weeks in the Southampton Democrat a newspaper published in said Southampton County, offer for sale at public outcry the land hereinafter conveyed and S. D. Kidgett appeared at said sale and bid the sum of Eighty dollars and that being the last and highest bid made he was then and there declared the purchaser, and has complied with the terms of said sale by paying said Winborne trustee the sum of nineteen dollars the amount of his commissions and the further sum of ten & ⁵⁰/₁₀₀ dollars in full of cost of advertising and selling said land, and having the notes secured in said trust credited with the sum of fifty one & ⁵⁰/₁₀₀ dollars.

know therefore the said B B Winborne
trustee aforesaid for and in consideration
of the premises and the payment of said purchase
money as aforesaid by said Midgett, has
bargained, sold and conveyed (and by these
presents does bargain, sell and convey to
said S. D. Midgett and his heirs and assigns
the following described real Estate lying
and being in the County of Southampton
in the State of Virginia to wit: All the
right title interest and estate of the said
C. H. Harcum, W W Harcum and his
wife Mary B Harcum in the tract of
land aforesaid, whereas W W Harcum
and wife resides adjoining the lands of
Norman Vaughan, Jesse Gardner, Allen
H. Gallon and others, and lying on the East
side of Public Road from Smith's Ferry
to Baurttand and containing eighty seven
acres more or less. It being the land conveyed
to said Winborne in said trust deed,
To have and to hold said granted premises
together with all rights privileges and
appurtenances thereunto belonging to the
use of him the said S. D. Midgett his
heirs and assigns.
And the said Winborne trustee
aforesaid covenants with said Midgett

his heirs & assigns to warrant and defend
the title to said granted interest and
estate in and to said land against
all just claims and demands so far
as he is bound to do as trustee in said
deed in trust and no further.

In witness whereof I have hereunto set
my hand and seal this the day and
year first above written.

B B Winborne Trustee & Seal

State of North Carolina }
Hertford County }

I L M Cofer a Notary Public in
and for the County of Hertford State of
North Carolina do hereby certify that
the execution of the foregoing instrum-
ent was this day duly acknowledged by
before me by B B Winborne the grantor
for the purpose therein expressed.

In witness my hand and official
seal this the 11th day of April 1890

L. M. Cofer
Notary Public

Southampton County, Iowa the Clerk's
Office April 14-1891,

The foregoing Deed from B B Winborne
to S. W. Medgett was this day received
and with certificate annexed admit-
ted to record.

Teste

B. F. McLenire C. C.

Notary Public

B. F. McLenire C. C.

Winborne

20 } Deed B. F.

Medgett

copy

Exhibit "B"

I acknowledge
legal service of
this notice 10-4-90

L. D. Whitley

Laura D. Whitley

This acknowledgment was obtained
by the Sheriff at an extra cost of \$1.00
the party living in St. La.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*L. D. Whitley - (formerly
Harcum)*

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 *1st* Monday in *Oct: 1890* ~~next~~, to answer a Bill in Chancery
exhibited against *her & als:* in our said Court by

S. D. Midgett

And this *she* 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 *1st* day of
Oct:, 189*0*, in the 116th year of the Commonwealth.

B. F. McLeMore

C. C.

W. Henry Whitley

I acknowledge
legal service of
this notice 10-4-90
W H Whitley

This acknowledgment was
obtained by the clerk at an
extra cost of \$1.00 the party
living in N. Car.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

W. Henry Whitley

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 *1st* Monday in *Oct: 1890* ~~next~~, to answer a Bill in Chancery exhibited against *him + als.* in our said Court by

S. D. Midyett

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 *1st* day of *Oct:*, 1890, in the 116th year of the Commonwealth.

B. F. McLemore

C. C.

Midyett

Sum:

Harcum + als:

1890. 1 Oct: Rules

lev: let:

Prince & Sebrill p.g.

Executed Oct 4th 1890

by delivering a copy of
this 'Sum' to John

Harcum Annis Harcum

Julius Harcum & Noah

Harcum A.A. Cobb Esq.

for J.W. Williams
Shiff

X

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*John Harcum - Annie Harcum -
Julius Harcum - Noah Harcum and W. Henry
Whitley and L. D. Whitley - (formerly Harcum) his
wife -*

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 *1st* Monday in *October 1890* next, to answer a Bill in Chancery
exhibited against *them* in our said Court by

S. D. Midgett

And this *they* 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 *1st* day of
Oct, 1890, in the 116th year of the Commonwealth.

B. F. McLeMORE

C. C.

Midgut, }
 } Decree.
 }
Hearcum et al.

This day this cause came on to be heard upon the Complainant's bill, exhibits therewith filed, taken for confessed as to the adult defendants, the answer of the infant defendants by J. L. McLeone, their Guardian ad litem, and was argued by Counsel. On consideration whereof, the Court doth adjudge, order and decree that it be referred to one of the Commissioners of this Court to inquire and report to the Court,

1st. Whether the Real Estate in the bill mentioned can be conveniently divided in kind among the several parties entitled thereto, and what are the respective interests of said parties.

2nd. If the same cannot be conveniently divided in kind, whether any party will take the entire property and pay therefor to the other parties such sums of money as their interests therein may entitle them to—

3. If the same cannot be conveniently divided in kind, and if no party will take the entire property & pay the others for their shares, then whether the

interests of those who are entitled to
the said property will be promoted
by a sale of the same,

which said inquiries the said
Commissioner will make and
report to the Court, together with any
matter specially stated, deemed
pertinent by himself, or required to
be stated by any interested party.

-1909-
Miaquell

r. 3 Decem.

Heavenum et al.

Nov. Term 1890.

To be entered:

CMD

Nov 7, 1890

Court

Apr. 8.

Prize & Debbell, Jr.