1820-031 Chancery Causes. Ismaiah Pitts vs John Clark

Isle of Wight County

or that your lordships will make such other order or decree in the premises for his relief as may be consistent with equity and justice.

May it please &c

Richd & Wm. Pryor
for Pl.

Pitts
vs.
Clark
Bill

June 1806
Bill filed

answer filed

May 1820 dismissed with leave to reinstate in 3 months

Pitts
vs
Clark

Bill.
&
Mortgage.

To the Worshipful court of Isle of Wight, sitting in
Chancery, humbly complaining, sheweth to the court,
your orator Ezekiah Pitts. That a certain John
Clark in consideration of being justly indebted
unto your orator in the sum of one hundred and
twenty one pounds two shillings and nine pence,
on the 4th day of March A.D. 1805. conveyed to him
a tract of land near Red point in this county &
within the jurisdiction of this court containing
by estimation three hundred and forty five acres.
That the deed by which the said land was conveyed
to you, and which is called a mortgage, is
hereto annexed and prayed to be taken
as a part of this bill. Your further states
that the aforesaid sum of £121.2.9 was not paid
on the 4th of March 1805. as ~~it~~ the said Clark
should have done agreeable to the form and
tenor of the said writing, and in fact he
owes that only £51. have ever been paid by the
said Clark to him towards the said debt,
although repeated applications have been
made to him for that Purpose. He says
that the said Clark refuses either to pay the
ballance due upon the said mortgage, or to
deliver up to him the lands aforesaid, or to

suffer him to enter peaceably thereon, or in fact to make him any satisfaction in any way, and he is convinced, that he will never be able to obtain the said debt from the said Clark, without the intervention of this Court.

To tender consideration whereof and for as much as your orator is remediless in the premises, except in a court of Equity, he prays the interposition.

To the end therefore, he prays that the said John Clark may be made a defendant to this bill of complaint, and that he may on his corporal oath full, true and perfect answer make to all and singular the allegations aforesaid, and that as fully as if the same were here repeated and he thereto particularly interrogated. More especially that he set forth whether whether he did not execute the writing aforesaid for the purpose of securing the comptt in the aforesaid, if he has ever paid any part of the said debt except the £51 paid as aforesaid on the 13th of April 1805. Your orator lastly prays that the court will decree that the said land or ~~estate~~ so much thereof as will be sufficient to satisfy the said debt be sold and the proceeds paid to him,

Answer

The answer of John Clark – to the bill of Complaint exhibited against him in the Worshipful Court of Eslop Wright by Ismaiah Pitts – This respondent now and at all times hereafter saving and reserving to himself all and all manner of right and benefit of exception to the said bill, for the many errors, uncertainties

Barlow for Defts

The Commonwealth of Virginia to the Sheriff of Albemarle County Greeting,
we Command you, that you summon John Clark
to appear before the Justices of our County court of Albemarle at their
Courthouse of said County, on the first monday in November next
there to answer a bill in Chancery against him
Jamaica Wills
and this he shall in no wise omit, under the pen
and have there there also this writ. Witness Nathaniel Young
Clerk of our said Court this 21st day of August 1805 in the
30th year of the Commonwealth

Nath. B. Young

Petty

vs

Clarke

Misc. docs

Executed

St. Louis Sept

Deputy

Isle of wight County, towit, June court 1804

Jsmaiah Pitty . . . . . Complt.

against — In Chancery

John Clark . . . . . Deft.

The defendant having failed to file his answer to the bill of the complainant exhibited against him by the complainants in this cause, It is ordered that unless the defendant appear here at August court next file his answer that judgment will be entered for the complainant against him agreable to the prayer of the said bill —

A Copy Teste Nath. Young Clk

april 23. 1805 Received of John Clark the sum of fifty one pounds in part of the within Mortgage

Isaiah Pitts

Test

Nicholas Wail
James + his Duggin
mark

Clark
To
Pitts
} Mortgage

filed in Chy 30th augt 05

and purposes and any thing herein contained to the Contrary not withstanding, and the Said John Clark for him Self, his heirs, Executors, and Administrators, Covenants and agrees with the Said Ismaiah Pitts, his Heirs, Executors, Administrators & Assigns, that the Said John Clark his heirs, Executors, or Administrators Shall well & truly pay, or Cause to be paid unto the Said Ismaiah Pitts, his heirs or Assigns the Said Sum of one Hundred and twenty one pounds two Shillings and nine pence good and lawfull money of Virginia, at Such time as is hereby before mentioned, and further that it Shall and may be lawfull to and for the Said Ismaiah Pitts, his heirs, Executors, Administrators and Assigns, from time to time, and at all times from and after default Shall happen to be made in the payment of the Said Sum of one Hundred and twenty one pounds two Shillings and nine pence Current money aforesaid, or any part thereof contrary to the form and effect of the foresaid proviso and Covenant of the same peaceably and quietly to enter into, have, hold, occupy, possess and enjoy the Said Land & other Premises and Appertenances and to receive and take the rents And profits thereof forever without the lawfull let, Suit, trouble, delay, or interruption of or by the Said John Clark, his heirs or Assigns or of by any other person, or persons, whom soever. And it is hereby declared, and agreed by and between the Said parties to these presents, that in the mean time and untill default Shall happen to be made, or in payment of the Said Sum of one Hundred and twenty-one pounds two Shillings and nine pence Current money as aforesaid Contrary to the form and effect of the aforesaid proviso and Covenant for payment of the same, it Shall And may be Lawfull to and for the Said John Clark, and his heirs, peaceably and quietly to have, hold, and enjoy all and Singular the aforesaid Land and Premises, and to receive and take the rents and profits thereof, to and for his and their use and benefit without the Lawfull let, Suit, Trouble, or interuption of the Said Ismaiah Pitts, his heirs, Executors, Administrators or Assigns, or of any other person or persons Lawfully claiming or to claim from, by, or under him or them. In Witness whereof the parties has hereunto Signed their Names, and Set their Seals, the day and year above Written.

Signed, Sealed & delivered in Presents off

John Clark (Seal)

Ismaiah Pitts (Seal)

Jno: Hurtwell

John his X Ward mark.

James his X Leggeon Mark

This Indenture made this fourth March in the year of Christ one Thousand Eight Hundred and five between John Clark of the one part, and Ismaiah Pitts of the other part both in the County of Isle of wight and State of Virginia, Witnesseth, that the said John Clark in consideration of the Sum of one hundred and twentyone pounds two Shillings And nine pence current money of Virginia, to him in hand paid by the said Ismaiah Pitts at or before the ensealing and delivering of these presents the Receipt whereof is hereby acknowledged, have bargained and sold and by these presents doth bargain And Sell unto the said Ismaiah Pitts his heirs & Assigns a Certain tract or parcel of Land situate and being in the County And State aforesaid near Red point and bounded by the Lands of Doctor Joseph Holms dec.d the Lands of Willis Wills, the Lands of Ralph West Esq.r the Lands of John Sinclear, and the mane Road which Leads from Cunninghams ferry to Smith, Containing about Three Hundred and forty five Acres be the Same more Or less Together with all and Singular the appertenances and Reversion And Reversions Remainder and Remainders Yearly and other Rents Issues and profits thereof and every part and parcel thereof, To have and to hold the said Land Together with all and Singular the premises herein before mentioned unto the said Ismaiah Pitts, his Heirs, and Assigns forever, Provided always and upon condition that if the said John Clark his Heirs Executors or Administrators Shall well and truly pay or cause to be paid unto the said Ismaiah Pitts, his Heirs, Executors, Administrators or Assigns, the full and just sum of one Hundred and twentyone pounds two Shillings and nine pence good and lawfull Money of Virginia on the fifth day of March in the year of Christ one Thousand Eight Hundred and five. then and in Such Case and at all times from thence forth these presents And all the estate herein granted and every clause and sentence herein contained Shall Cease, determine and be utterly void to all intents