1874-004 Chancery Causes: Benjamin Whitehead, admr v James Thomas vs Patrick Pierce
Dsk of Wright County

other surnames: Griffin
Pearce

Kelly p. q

Jesse Whitehead
adm'r. of Jo. Thomas

vs Bill

Patrick Pierce

Feby. Rules 1872 - Sum'd.
Exp'd. & decree nisi.

March Rules " Bill taken
for confd. Bill for Injunct.
Sept. 1872 - demurrer ov'd.
June 18th 1872 Rep. filed

Augt. Ct. 1872 - Decree to
recvr. out lands unless
Payt. is made &c.

May 1874 Fi. fa.

Co. Ct. J. off'd.

Complainants say that their judgments are liens on said Land, in the order in which they were rendered, and pray that the said Land may be sold and their said Judgments be paid thereout —

Your Complainants are advised and therefore say, That the said Homestead Deed & the Law under which it was executed, are void, and that said Law is repugnant to the Constitution of the United States and null & void, and is therefore ineffectual to bar your Complainants from obtaining the benefit of their said Liens, and they pray that said Deed may be set aside and said Land sold for the purposes aforesaid —

In Consideration whereof and as this Court can grant all adequate relief — To the End your Complainant pray that the said Patrick Pierce may be made defendant hereto & be compelled to answer the allegations herein, on oath, Not the Prayer of your Complainants as above set forth may be granted (and that all further relief may be granted Consistent with Equity. And &c

Depew Hitchcock & Dow
Solrs for Complainants
by John R. Kelly Atty.

day of 1871, — a duly certified copy of said Judgment is filed herewith & marked "B" —

That an execution issued on the said first named Judgment and was placed in the hands of the Sheriff of said County, who returned the same unsatisfied because the said Patrick Pierce has claimed the Homestead & other Exemptions as allowed by Law — a copy of which execution and Sheriff's return are filed herewith as part of this Bill marked "C".

That no part of either of said debts has been paid, and that B. H. Griffin aforesaid is dead and insolvent.

Your complainants further say, that the said Patrick Pierce did on the 2d day of March 1871, two days before the Judgment in favor of said Whitehead & al., has rendered executed a Homestead Deed, under the act of the General Assembly of Virginia approved June 27th 1870, and had the said Deed recorded, claiming his chattel estate and also a tract of 150 acres of land in said County, on which he then resided & now resides, purchased by him of Robert Saunders, — a copy of which Deed is filed herewith & marked "D". as a Homestead & other exemptions

Your

To the Hon. Leo R. Atkinson, Judge of the County Court of Isle of Wight County.

Complaining, shew unto the Court your Complainants, Sepe Whitehead admr. of Benjamin Whitehead dec'd, and James Thomas —

Your Complainants, respectfully represent to the Court and say, that they obtained Judgments against one Patrick Pierce of said County, as follows — that is to say — Sepe Whitehead admr. as aforesaid your Complainant, obtained Judgment against said Peirce, surviving obligor of B.N. Griffin and himself, in the County Court of said County on the 4th day of March 1868, for the sum of thirty five dollars and seventy cents with Interest thereon from the 22d. day of November 1860 till paid & $6.68 cts — which Judgment was docketed in the Clerk's Office of said County Court on the 10th March 1868 — a duly certified copy Patrick Judgment &c. is filed herewith as part of this Bill marked "A" —

That your Complainant James Thomas obtained Judgment against said Patrick Peirce in said Court on the 4th. day of April 1871, for $ 87.30c with Interest thereon from the 3d. day of May 1866 till paid & $ 7.42 cts — which Judgment was docketed in the Clerks Office of said County Court on the

Bayard & Whitehead vs Dow

and Jas. Thomas

Summ. in
Ch.

Patrick Deins

To last Monday in
Janry. 1842.
Stubbs Esq.

In open Court. Plea
the Statute of Limitations
Replication filed.

E. D.

Issued by delivering a true copy of the
within to Patrick Deins on the 7th
January 1842

A. M. Elegs D.S.
for A. J. McPherson Sh'ff

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County--- Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Patrick Pierce

if he be found within your bailiwick to appear at the Clerk's office of our County court last for our said county of Isle of Wight, at the Rules to be holden for the said court, on the ~~first~~ Monday in January 1872 ~~next~~, to answer Joseph Whitehead administrator &c the Bill in chancery of Joseph Whitehead administrator of Benjamin Whitehead dec'd. and James Thomas

And have then and there this writ.

Witness, N. P. YOUNG, Clerk of our said Court, at his office, this 5th day of January 1872, in the 96th year of our foundation. N. P. Young Clk

SUN JOB PRINT, SUFFOLK, VA.

Whitehead's adm. &c.
vs. Com. Dept.
P. Pinc

July 15th 1842
Feb. 1

Commissioners Office, Isle of Wright Court House
July 13th 1872.

To the County court of said county.

Pursuant to a decree of said court, rendered on the 1st. day of April, 1872, in the suit in chancery therein depending between Jesse Whitehead adm. of Benj. Whitehead dec'd. Plaintiff against Patrick Purvis defendant, directing a commissioner of the court to take, first, An account of the judgment liens on the defendant Patrick Purvis land and the amount and priority of the same. Second. An account of the real estate belonging to said defendant, subject to said liens, and the fee simple and annual value thereof. Your commissioner reports to the court that on the 25th day of June, 1872, he issued notices to the parties that he had appointed the 13th day of July last to take and settle at his office, the said accounts, which notices were duly executed & returned. That from the evidence before him your commissioner has made the foregoing accounts A. and B. shewing the amount of judgment liens to be $194.94, of which the judgment in favor of Jesse Whitehead adm. of Benj. Whitehead has priority. And the fee simple value of said Purvis land to be $825.00, and the annual value thereof $75.00 —

Given under my hand as a commissioner of said court the day & year first aforesaid.

Comm'r. fee $5.00
Clerk " $1.00
$6.00

N. P. Young Com.

An account of all judgment liens on Patrick Pierces lands, and the amount and priority of of the same.

1st. K. A judgment in favor of Jesse Whitehead adm. of Benj. Whitehead, rendered in the County Court of Isle of Wight on the 4th day of March 1868 for $35 70
Interest thereon from the 22d day of Nov. 1860 to the 5th of Augt. 1872. $25 16
Costs of suit $6 66 $67 52

2nd. A. A judgment in favor of James Thomas rendered in same court on the 4th of April 1861, for $54 30
Interest thereon from 3d day of May 1866 to the 5th of Augt. 1872. $32 70
Costs of suit $7 42 $127 42
Total amt. of judgments $194 94

13.

An account of the real estate belonging to Patrick Pierce subject to the liens of judgments mentioned in foregoing account A. And the fee simple & annual value thereof.

One tract of 150 acres near Barbers Road, fee simple value thereof. $825 00

Annual value thereof $75 00

Interlocutor

in

Patrick Peirce

1872

Ape A. Decree

to be entered.

Geo. Peckham

Entered

Whitehead adm &

v.

Patrick Pierce

This cause coming on this day to be heard on the Complainants' bill taken for Confessed as to the said defendant, on which proof had been duly executed & the said failing to appear & make defence, & on the Exhibits filed with the Bill, and duly argued by Counsel. On Consideration whereof the Court doth adjudge order & decree that a Commissioner of this Court, proceed to ~~make~~ take &. take & state the following accounts — 1st an account of all Judgment Liens on said Defendants' Lands, & the amount, & priority thereof — 2d. an account of the real estate belonging to said defendant, subject to said Liens & the fee simple and annual value thereof, and make report to Court with any matter, specially stated deemed pertinent by himself, & that any of the parties may require to be so stated

and

Whitehead's adm'r,

vs. } copy of decree of Apl. Co. Ct. 1872.

Pal: Pierce

25th June 1872. Notice
ff. to 13th July 1872.

In Isle of Wight County Court April the 1st 1842.

Jesse Whitehead admr of Benjamin Whitehead dec'd. Pltff.

vs. } In Chancery

Patrick Pierce Deft.

This Cause Came on this day to be heard on the Complainant's bill taken for confessed at rules as to the said Defendant on whom process had been duly executed & he still failing to appear & make defence, & on the Exhibits filed with the bill, and was argued by Counsel: On consideration whereof the Court doth adjudge, order, & decree that a Commissioner of this Court, proceed to take & State the following accounts. 1st An account of all Judgment liens on said Defendant's land & the amt & priority thereof. 2nd An account of the Real Estate belonging to — said Defendant, subject to said liens, & the fee simple and annual value thereof, and make Report to Court with any matters Specially stated, deemed pertinent by himself, or that any of the parties may require to be so stated.

Teste

Lee A. Hunt, D.C.

Whitehead &
Morris

Pierce &c

1872

Aug Ct. Decree

To be entered

Mon Restitution

Mr Young could have
duly served in the
State Statement of
Costs in Chancery &c

Entered

Whitehead adm'r v. Pat. Pierce

This cause on this day to be again heard on the papers formerly read on the report of A. P. Young, Comr. made pursuant to the decree of the 1st of April 1872 — to which report there is no exception & was argued by Counsel: on consideration whereof the Court doth confirm the said Report, and doth adjudge, order & decree that unless the said Patrick Pierce shall on or before the 1st Oct. next pay to the Plaintiff, the Adm'r of Benja Whitehead dec'd the sum of $67.52 with Int. on $35.70, part thereof from 5th Aug 1872, & the sum of $127.42 with Interest on $87.30 part thereof from 5th Aug 1872 and the costs of this suit, that then & in that case the Sheriff of this County will proceed to sell at the door of the Court House of this County, on some Court day, after having given 15 days notice thereof at the Court House & near the premises report to Court — and it is ordered that the said Patrick Pierce be served with a copy of this Order.

Door of Isle of Wight County on some
court day, after having given 15 days
notice thereof at the Courthouse, and
view the premises, and report to
court, And it is ordered that the
said Patrick Pierce be served with
a copy of this Decree,

A Copy
Teste, Ex'd, Hart, D.C.

Executed by delivering a true copy of the within
Bill, Pmes. on the 4th day of Aug 1872

A. M. Smith
P.J. Shuttleworth

Whitehead & Brown
Atty's for Pltff
Aug 1. Co. Ct. 1872

vs.

Pat. Pierce —

In the County Court of Isle of Wight County August 7th 1872

Jesse Whitehead adm'r of Benjamin Whitehead dec'd Pltff.

vs. In Chancery

Patrick Pierce Deft.

This Cause Came on this Day to be again heard on the papers formerly read, & on the Report of U. S. Young Comm'r made pursuant to the decree of the first of April 1872, to which there is no exception, And was argued by Counsel; On consideration whereof the Court doth confirm the said Report, & doth adjudge, order & decree that unless the said Patrick Pierce shall on or before the 1st October next pay to the plaintiff Jesse Whitehead adm'r of Benj'n Whitehead dec'd the sum of $67.52 with interest on $35.70 part thereof from 5th August 1872, and to James Thomas the sum of $27.42 with interest on $87.30 part thereof from 5th August 1872, & the costs of this suit, that thereupon in that case the Sheriff of this County will proceed to rent out the lands of said Patrick Pierce before the Courthouse

Whitehead
v
Pearce

"A"

certificate of
Payment

Whitehead &c

v

Pierce

I certify that the plaintiff's demand has been fully paid, Debt, Interest & costs.

John R. Kilby, J.P.

26 May 1874.

Whitehead &c

v.

Pearce

May Circuit Court 1874

Final decree

To be entered

Geo. B. Cox

Entered

6

Whitehead Jr.

v.

Pearce

This cause came on this day to be again heard on the papers formerly read herein and on the paper "A" filed herein, shewing that the plaintiff's demand, (principal interest and costs), has been satisfied in full, and was argued by counsel.

On consideration whereof the Court doth confirm the proceedings had herein and doth declare the same to be final and binding between the parties to this suit; and nothing now remaining to be done herein, the Court doth order that this cause be removed from the docket of this Court.

Whatever work I
Thomas,
in
Peace
& Exhibited
with the Rise

Whitehead's admr, &c

vs. { Copy of Judgmt. & Certfc: of Docktg:

Pat. Pierce & wg. &c.

"A"

Fee .65 ¢

In Isle of Wight County Court, Mar. 4th 1860

Jesse Whitehead admr. of Benj. Whitehead, Pltff.

vs. } In Debt,

Patrick Pierce exr. of B. H. Griffin and himself, Deft.

The Judgment entered at rules not having been set aside, and the plaintiff being now entitled to a final Judgment, it is considered that the plaintiff recover against the defendant the sum of Thirty five dollars and Seventy Cents with interest thereon from the 22nd day of November 1860 till paid, and his costs expended.

Costs $6.68

A Copy Teste

C. H. Hart, D. C.

I certify that the above Judgment was Docketed in Isle of Wight County Court Clerk's office March 10th 1860.

Teste

C. H. Hart, D. C.

Jas. L. Thomas

vs, { Copy of Judgmt. & Certfy. of Docket'g:

Jas. Pierce

"B"

Fee 65¢.

In Isle of wight County Court Apl. 4th 1871.

James Thomas Plff.

vs. } In Debt—

Patrick Pierce Deft.

The judgment obtained at rules not having been set aside, and the plaintiff being now entitled to a final judgment, it is considered that the plaintiff recover against the Defendant Eighty Seven Dollars & thirty cents, with interest thereon from the 3rd day of May 1866, till paid, and costs $7.42 his costs in this behalf expended,

A Copy

Teste

C. D. Hart, D. C.

I certify that the above judgment was docketed in Isle of wight County Court Clerk's office on the

Teste

C. D. Hart, D. C.

I can find no property on which I can levy this Execution. the party having claimed the Homestead exemption,

W. A. Bullen Dept.
Shff. for,
E. J. Chapman Shff.

Whitehead & admr.
vs.
Hi. fa.
Copy of

Sat. Dinner Aug. 6C.
4th Dec. 1874.
Shelby Co.

"C"

Fee .50 ¢

The Commonwealth of Virginia,

To the Sheriff of the County of Isle of Wight—Greeting:

We command you that of the goods and chattels of Patrick Pierce survi-ving of B. A. Griffin himself

late in your bailiwick, you cause to be made the sum of Thirty five Dollars and Seventy cents with interest thereon from 22nd of Nov., 1860, till paid. (subject to a credit of one year's in-terest paid. which Jesse Whitehead Adm'r. of Benj'n Whitehead

lately in our County *Court of the County of Isle of Wight, recovered against* him *for debt; also the sum of* _____ *Dollars and* 58 *Cents, which to the said* Whitehead's adm'r ____ *in the same Court were adjudged for* his *damages, as well by reason of detaining the said debt, as for* his *cost in that suit expended, whereof* said Pierce is *convicted as appears to us of record; and that you have the said debt and damages before the* Judge *of our* County *Court, at the Courthouse, on the first Monday in* December *next, to render unto the said* Whitehead's adm'r ____ *of the debt and damages aforesaid. And have then and there this writ.*

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, this 24th *day of* October *A. D.* 187/, *and in the* 96th *year of the Commonwealth.*

N. P. Young clk.

A Copy Teste C. D. T. Hart, D.C.

SUN JOB PRINT, SUFFOLK, VA.

Patrick Pierce's
"Homestead Deed"

Abstract

"D"

Fee .45 cts "

valued at $5.00 old wagon valued at $5.00, 2 plows, 2 forks, 4 hoes & plow gear valued at $3.00 20 Barrels of corn valued at $80.00 2000 lbs of fodder valued at $20.00 800 lbs of Bacon valued at $120.00 50 lbs of Lard valued at $9.00 3 Axes $1.50 1 cross cut Saw valued at $2.00 1 frower at .25¢ Drawing Knife .50¢ & two pairs of wedges at $1.00 out of which I first claim the benefit of the law known as the "Poor Law", Witness my hand and seal this 2nd day of March, 1871.

Patrick Pierce Ead

In the Clerk's Office of Isleofwight County Court the 2nd day of March 1871. This Deed of Patrick Pierce declaring his intention to claim the benefit of the "Homestead Law" was acknowledged by said Pierce and admitted to record, no Stamp being required,

Teste

N. D. Young Clk.

A Copy

Teste

C. H. Hart, D. Clk for

N. D. Young Clk

Know all men by these presents, that I. Patrick Pierce a resident of the County of Isle of Wight, and State of Virginia, and a householder and the head of a family, and desiring to avail myself of the benefit of the Act of the General Assembly of Virginia, approved the 27th. of June 1870, entitled an Act to prescribe in what manner and on what conditions a householder or head of a family shall set apart and hold a Homestead and personal property, for benefit of himself and family exempt from sale for debt, Do by these presents declare my purpose and intention to claim such Homestead, and that I have selected the following of my property for that purpose, To wit: 150 acres of land valued at $825.00 being the land on which I now reside, and which I bought of Robert Saunders. Two Horses, one a Bay and the other a Roan valued at $175.00, 5 head of Cattle valued at $50.00, 7 head of Sheep valued at $10.00, 15 head of hogs valued at $25.00, 2 Carts & wheels valued at $40.00 1 Still, Apple mill 2 Presses. 24 Casks & Stands, valued at $40.00, 4 Beds Steads & furniture $80.00, 12 Chairs $6.00 One Bureau $20.00 Lot of Dinner & Tea crockery ware valued at $5.00 Lot of Cooking utensils composed of Pots. Ovens. Spiders, Kettle &c

Whitehead's admr. &c.

vs. Comm'l. Notice

Patrick Pierce

D. 13th July 1842.

I accept the Legal Notice of the Pendency of this Motion and Petition

Exam'd & fyled Oct. 1st 1842

Commissioner's Office,

ISLE OF WIGHT COURTHOUSE:

June 25th 1872.

To Jesse Whitehead admr. of Benj. Whitehead dec.

Plaintiffs,

And

To Patrick Price

Defendants:

You are hereby Notified, *That I have fixed upon the* 17th *day of* July *next. if fair, if not, the next fair day thereafter, (Sunday excepted), to take and settle, at my office aforesaid, the following accounts:*

First. An account of all judgment liens on said defendant (Patrick Price) land and the amount and priority of the same.

Second. An account of the real estate belonging to said defendant, subject to said liens, and the fee simple and annual value thereof.

Required to be taken by decree of Isle of Wight County Court, rendered on the 1st *day of* April, 1872, *in a suit in chancery depending in the said court, in which you are Parties, Plaintiffs and Defendants, at which time and place you are required to attend.*

Given under my hand as Commissioner of the said Court, the day and year first aforesaid.

J. D. Young **Commissioner.**

Bill of Costs

Abteilung d. k. k.

Pension

Allo. Stay. 16.50

CM. (including Cession for Suffh) 10.38

Staff. (Aschmann) 1.50

Cond. (Jones) 5.00

£ 33.38

Post

f. R. Hemyleth.