

1908-046 Chancery Causes: J. H. Landing vs J. Peter Holland, trustee & al

30

Isle of Wight County

other surnames: Ashburn
Whitley, Darden

J. H. LANDING

VS.

J.P.HOLLAND, TRUSTEE, ET ALS.

BILL.

2nd November rules 1907
Process returned executed
on all parties. do nisi.

3rd November rules 1907
Defendants still failing to
appear, plead answer or demurrer.
Bills taken for confessed as to
all defendants and case set
for hearing.

ROBT. W. WITHERS,

ATTORNEY AT LAW,

SUFFOLK, VA.

PRACTICING IN ALL COURTS IN
FIRST JUDICIAL CIRCUIT.

JEWELL & COMPANY, PHILADELPHIA.

of the said L. H. Whitley, Trustee; that the said deed of trust from Mingo Ashburn to J. Peter Holland, Trustee, as above described be set aside, cancelled, and annulled; that the title to your orator's land be cleared of all said encumbrances and clouds; that all proper orders and decrees may be made and that all references directed and that all such other further and general relief may be afforded your orator as the nature of his case may require or to equity may seem meet. And your orator will ever pray etc/

J. A. Landings
By Counsel

State of Virginia,

County of Nansemond, to-wit:-

J. M. Darden being duly sworn says that he knows the contents of the foregoing bill; and that the statements therein contained are true except such as are herein stated upon information to and belief and as such alleges he believes them to be true.

J. M. Darden

Subscribed and sworn to by J. M. Darden in my county and State aforesaid 13th day of November, 1907.

Emma King N. P.

My term of office expires Nov. 5th, 1908.

af your orators rights and will inflict upon him irreparable injury.

In tender consideration whereof and for as much as your orator is remediless in the premises save by the aid of a court of equity, where matters of this kind are alone and properly cognizable, to the end that justice may be done, your orator prays that the said J. Peter Holland, Trustee, William S. Holland, L. H. Whitley, Trustee, J. M. Darden, Mingo Ashburn, Annie Ashburn and Chius Ashburn may be made parties defendant to this suit and required to answer the same; the answer under oath of all of the parties save William S. Holland is hereby waived; that William S. Holland be required on his corporal oath to make full answer to the several statements herein made as fully as if the same were here repeated, and he thereto specially interrogated, specially that he state what services he performed for the said Mingo Ashburn as a consideration for the said supposed debt secured by the said supposed deed of trust; that the said J. Peter Holland, Trustee, and William S. Holland their agents, attorneys and all others be enjoined and restrained from enforcing or offering to enforce the lien of the deed of trust herein above described from Mingo Ashburn to J. Peter Holland, Trustee, and that they be enjoined from selling or offering to sell the land above described in this bill or any part thereof now in possession of your orator until the further order of this court; that the said William S. Holland be compelled to accept such sum as is reasonably due him for the services actually rendered by him to Mingo Ashburn not exceeding the sum of Twenty (\$20.00) Dollars, from the said funds now in the hands

charged aforesaid in any way or manner; that the consideration for the said debt secured by the said deed of trust has not been performed by the said William S. Holland save only by the writing and recording of the two deeds first above mentioned in this bill, to-wit, the two deeds dated the 30th of September, 1904, from Mingo Ashburn to J. Peter Holland, Trustee, and from Mingo Ashburn to Annie A. Shburn, that such services rendered by the said William S. Holland are reasonably worth a small sum, to-wit, Ten (\$10.00) Dollars.

Your orator is advised that all the parties in interest to this bill are willing that the said William S. Holland should be paid a fair and reasonable compensation for such service as he rendered Mingo Ashburn in any way out of the moneys now in the hands of L. H. Whitley, Trustee, after having paid off the debts due J. M. Darden, which residue amounts to about Twenty (\$20.00) Dollars.

Your orator is the owner in fee of the said tract of land and is now in possession thereof.

And he represents that the deed above mentioned of Mingo Ashburn to J. Peter Holland, Trustee, to secure to William S. Holland a debt of One Hundred (\$100.00) Dollars constitutes a cloud upon the title of his land.

Your orator represents that the said J. Peter Holland, Trustee, has advertised for sale the land above mentioned, which is the property of your orator purchased as aforesaid, to be made on Saturday the 16th day of November, 1907, and unless restrained and prevented from offering said property at public auction he will undertake to sell the same in derogation

All that certain tract of land of which Moses Ashburn dies, seized and possessed situate in Windsor Magisterial District of Isle of Wight county, Virginia, and containing about one hundred (100) acres, more or less, and bounded by the lands of L. C. Turner, N. T. Lewis, J. W. Spivey, Irving Jenkins, Sidney Smith and others. That at said sale your orator was the highest bidder and became the purchaser of the said property for the price of Five Hundred and eleven (\$511.00) Dollars, which sum he has heretofore paid to L. H. Whitley, Trustee, and has received from the said L. H. Whitley, Trustee, and has duly recorded the same, a deed of Bargain and Sale conveying to him all of the said tract of land. Your orator is advised that the said L. H. Whitley, Trustee, has paid to J. M. Darden all of the debts made by the said Annie Ashburn and thus Ashburn and secured by the several deeds of trust above mentioned on the said property and after satisfying all of the said debts and paying all expenses there is a small balance still held in the hands of the said L. H. Whitley, Trustee, to-wit, the sum of Twenty (\$20.00) Dollars.

Your orator represents that shortly after the deed of trust above mentioned executed by Mingo Ashburn to J. Peter Holland, Trustee, to-wit, on the 30th of September, 1904, the said Mingo Ashburn departed from these parts and became and was a fugitive from justice and has not since been taken into custody by the officers of the law.

Your orator expressly charges that the said William S. Holland was not called upon to and did not render any service to the said Mingo Ashburn in defending him against the crime

the payment of the sum of Ninety Five Dollars and Twenty One Cents (\$95.21) evidenced by bond.

That on the 15th day of November 1906 Annie Ashburn and Chius Ashburn conveyed all of the said land subject to the life estate of Patience Ashburn to L. H. Whitley, trustee, in trust to secure to J. M. Darden the payment of the sum of One Hundred and Fifty (\$150.00) Dollars evidenced by bond made by the said Chius and Annie Ashburn.

That shortly after this time, to-wit, on the _____ day of December the said Patience Ashburn, tenant in possession, died.

That on the 10th day of December, 1906, Chius Ashburn conveyed his one-half undivided interest in the said some tract of land to L. H. Whitley, Trustee, in trust to secure to J. M. Darden the payment of a note for the sum of Fifty One Dollars and Forty Cents (\$51.40) made by the said Chius Ashburn.

Your orator represents that all of the debts in the said several deeds of trust herein mentioned bear interest from their respective dates and the homestead exemption is waived by the said several debtors as to the payment of the said debts. And that all of the said deeds and deeds of trust were duly recorded in the Clerk's Office of Isle of Wight County Circuit Court.

Your orator represents that on Saturday, October 26th, 1907, on the premises in Isle of Wight County L. H. Whitley, Trustee, exposed to sale the tract of land conveyed to him in trust by the deed above mentioned dated the 15th of November, 1906, in which deed the said land, which is the same land mentioned in all of the said deeds, is described as follows:

into effect and such other deeds as might be required for such fees as said services were reasonably worth. That then and there the said Mingo Ashburn executed his note or bond to the said William S. Holland by which he bound himself to pay the sum of one hundred (\$100.00) Dollars to William S. Holland and secured the payment of the same by a deed of trust upon his moiety of land hereafter described in which he conveyed the said interest in remainder in said land to J. Peter Holland, Trustee for William S. Holland. Said deed being dated the 30th day of September, 1904.

Your orator represents that of this One Hundred (\$100.00) it was then and there agreed that Fifty (\$50.00) of the same was for professional services to be thereafter rendered by the said William S. Holland to the said Mingo Ashburn and that the other Fifty (\$50.00) Dollars thereof was to cover the charges for writing and recording such deeds as might be necessary at such sums as such services were reasonably worth, and the balance, if any, was to be paid to Annie Ashburn the wife of Mingo Ashburn as and for the agent of Mingo Ashburn.

That on the same date, to-wit, the 30th day of Sept. 1904, the said Mingo Ashburn conveyed by deed all of his moiety in the land hereafter described, subject to the life estate of Patience Ashburn, to Annie Ashburn his wife subject to the deed of trust hereinbefore mentioned to J. Peter Holland, Trustee for William S. Holland, to secure a debt of One Hundred (\$100.00) Dollars.

That on the 16th day of March, 1906, the said Annie Ashburn conveyed all of her interests in the said property which she acquired under the deed above mentioned from Mingo Ashburn to her, to L. H. Whitley, Trustee, to secure to J. M. Darden

IN THE CITCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

November 12th, 1907.

J. H. LANDING.....COMPLAINANT.

VS.

J. PETER HOLLAND, TRUSTEE, ET ALS.....DEFENDANTS.

BILL.

TO THE HONORABLE R. E. BOYKIN, JUDGE.

Humbly complaining, your orator, J. H. Landing, of Isle of Wight County, Virginia, sheweth unto your honor the following facts.

That on September 30th, 1904, Mingo Ashburn was the owner in remainder of one moiety of a certain tract of land hereinafter described subject to the life estate of Patience Ashburn, his mother. And Chius Ashburn was on said date the owner in remainder of the other moiety of the said tract of land subject to the life estate of Patience Ashburn.

Mingo Ashburn at that time was charged with a felony and feared an indictment of the grand jury of Isle of Wight County. William S. Holland at that time was a practicing attorney in Isle of Wight County and to him Mingo Ashburn went for advice. At that time your orator represents that Mingo Ashburn and William S. Holland entered into the following agreement, to-wit, that William S. Holland would represent as counsel the said Mingo Ashburn in the Circuit Court of Isle of Wight County upon the charge of felony for the sum of Fifty (\$50.00) Dollars and that he would represent him in the Magistrates Court at a preliminary hearing and would write all necessary papers and have recorded all necessary deeds to carry their agreement

To enjoin and restrain Wm. S. Holland and J. Peter Holland, trustee, or either of them, their servants, agents or employees, or any one over whom they, or either of them, have any control, from selling or offering to sell at public auction or otherwise that certain tract of land situate in Windsor Magisterial District, Isle of Wight County, Virginia, containing one hundred (100) acres, more or less, and bounded by the lands of L. C. Turner, N. T. Lewis, J. W. Spivey, Irvin Jenkins, Sidney Smith and others, and known as the Moses Ashburn land, or any part thereof, and further enjoining and restraining them, until the further order of this court, from enforcing or attempting to enforce by sale or otherwise the lien of a certain deed of trust executed on the 30th. day of September, 1904, by Mingo Ashburn and wife to J. Peter Holland, trustee, to secure to William S. Holland the payment of a debt of one hundred (\$100.00) dollars.

R. E. Boykin,
Judge of the Circuit Court of Isle
of Wight County

In the Circuit Court of Isle of Wight County, Virginia, November 13-1907

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Original

J. H. Landing

vs. {

SUBPOENA
IN
CHANCERY.

Peter Holland, trustee et al

P. M. Wither

To 2nd November Rules,

Circuit Court.

1907

B3119

Bond, with approved security, required in the injunction order of this court, has been duly executed.

Teste A. R. Whitlow C.C.

Executed by delivering a true copy of the within subpoenas, with subpoena return of execution order thereon, to J. Peter Holland, trustee and Louis Holland, the parties named herein, on this, the 16th day of November 1907

R. A. Edwards
Sheriff
By
A. R. Whitlow
Deft Sheriff

The Commonwealth of Virginia,

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

WE COMMAND YOU that you summon

*Wm. S. Holland and sister
Holland Trustee*

to appear at the Clerk's office of the *Circuit* Court of the *County* of *Isle of Wight*
at the rules to be held for the said Court, on the *5th* Monday in *November* 190*7*,
to answer a bill in chancery, exhibited against *them* in our said court ~~for~~
by J. H. Landrum

And have then there this writ. Witness *Nathaniel F. Young*, Clerk of our said court, at
the court-house, the *15th* day of *November* 190*7*, and in the 12*2nd*
year of the Commonwealth.

Test. N. Johnson

3
J. H. Fanning
23
J. P. Halland Master
of the

--2--

damages as may be incurred in case this injunction shall be dissolved.

R. E. Boykin

Judge of the circuit court of Isle of Wight county

To the Clerk of the circuit court of Isle of Wight county, Virginia.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

NOVEMBER 13TH, 1907.

J. H. LANDING.....COMPLAINANT.

VS.

J. PETER HOLLAND, TRUSTEE, ET ALS.....DEFENDANTS.

INJUNCTION ORDER.

In vacation.

On motion of the complainant, by counsel, and for good cause shown, an injunction is awarded him to enjoin and restrain William S. Holland and J. Peter Holland, Trustee, or either of them, their servants, agents or employees, or any one over whom they, or either of them, have any control, from selling or offering to sell at public auction or otherwise that certain tract of land situate in Windsor Magisterial District, Isle of Wight County, Virginia, containing one hundred (100) acres, more or less, and bounded by the lands of L. C. Turner, N. T. Lewis, J. W. Spivey, Irving Jenkins, Sidney Smith and others, and known as the Moses Ashburn land, or any part thereof, and further enjoining and restraining them from enforcing or attempting to enforce by sale or otherwise the lien of a certain deed of trust executed on the 30th day of September, 1904, by Mingo Ashburn and wife to J. Peter Holland, Trustee, to secure to William S. Holland the payment of a debt of one hundred (\$100.00) Dollars.

But before this injunction is to take effect the said J. H. Landing, or some one for him, shall enter into an acknowledged bond, with security deemed sufficient by the clerk of this court, in the penalty of \$100.00, and conditioned to pay all such costs as may be awarded against him and all such

JH Landring
vs. Chauncy
JH Holland. Master of

1908
June 1.
Enter this
B. D. W.

C.O.B. No. 6, page 55.

I consent to this
decree
JH Landring by
Robt. N. Withers, his
att'y.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

June Term, 1908.

J. H. LANDING.....COMPLAINANT,
VS.

J. PETER HOLLAND, TRUSTEE, ET ALS.....DEFENDANTS.

FINAL DECREE.

This cause came on this day upon the papers formerly read, and it appearing to the court that the parties have adjusted all the matters involved in this suit, and consent to its dismissal, it is ordered that the defendants recover of the plaintiff his costs and that this suit be stricken from the docket.

Lansing 4
vs.
Holland Form No. 306.

J. H. Lansing

to

{

INJUNCTION BOND.

Commonwealth

A copy
J

Wm. S. Holland and J. Peter Holland, trustee, or either of them, their agents, servants or employees, or any one over whom they have control, from selling or offering to sell, by public auction or otherwise, that certain tract of land situate in Windsor Magisterial District, Isle of Wight County, Virginia, containing one hundred acres, more or less, bounded by the lands of L. C. Turner, N. T. Lewis, J. W. Spivey, Irvin Jenkins, Sidney Smith et als, and known as the Moses Ashburn land, or any part thereof, or enforcing or attempting to enforce, by sale or otherwise, a lien of a certain deed of trust executed on the 30th. day of November, 1904 by Mingo Ashburn and wife to W. Peter Holland, trustee, to secure to Wm. S. Holland the payment of a debt of one hundred dollars.

Know all Men by these Presents, That we

*L. H. Whitley Principal (for
J. H. Landing)*

are held and firmly bound unto the Commonwealth of Virginia, in the sum of *One Hundred*
dollars, to the payment whereof, well and truly to be made to
the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors
and administrators, jointly and severally, firmly by these presents. And we hereby waive the benefit of our
exemptions as to this obligation, and also of any claim, or right to discharge any liability to the Common-
wealth arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds
of this State. Sealed with our seals, and dated this *15th* day of *November*,
one thousand ~~eight~~ ^{nine} hundred and *seven* (1907).

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas the above bound

*L. H. Whitley
who giving bond for J. H. Landing the plaintiff in a*

on *Mr. S. Holland* bill in chancery against *J. Peter Holland, Trustee, and*

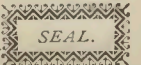
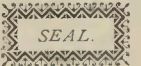
addressed to the Judge of the *Circuit* Court of the *County of Isle of Wight*
has obtained from the said Judge an injunction to injoin and restrain

until the future order of the said court; and whereas it is provided, by the order of the said Judge awarding
the said injunction, that the plaintiff shall not have the benefit thereof until *J. H. Landing*,
or some one for *him*, shall enter into a bond, with good security, in the clerk's office of the said
court, payable to the Commonwealth of Virginia, in the penalty of *One Hundred*
dollars, and conditioned to pay all such costs as may be awarded against the
said plaintiff, and all such damages as shall be incurred in case the said injunction be dissolved. Now,
therefore, if the said *J. H. Landing* shall pay all such costs as
may be awarded against *him*, and all such damages as shall be incurred in case the said injunc-
tion be dissolved, then this obligation to be void, otherwise to remain in full force and virtue.

Executed in the presence of

A. S. Johnson c.c.

*L. H. Whitley,
O. L. Baxter,*



In the Clerk's Office of the *Circuit* Court of the *County of Isle of Wight*
This day personally appeared before me *A. S. Johnson*, Clerk
of the *Circuit* Court of the *County of Isle of Wight*, and made oath
that *his* estate, after the payment of all *his* just debts, and those for which he *is* bound as
security for others and expect to have to pay, *he is* worth the sum of *One Hundred*
dollars, over and above all exemptions allowed by law.

Given under my hand this *15th* day of *November*, 18*97*.

A. S. Johnson Clerk.