

1928-016 Chancery Causes : S. C. Cutchins vs Curtis Williams and

536

Dale of Wight County

other surnames: Ballard,
Lowe,

HUGH L. HOLLAND
J. MELVIN LOVELACE

HOLLAND & LOVELACE
ATTORNEYS AT LAW
SUFFOLK, VIRGINIA
June 20, 1928.

Mr. R. A. Edwards, Clerk,
Isle of Wight, Virginia.

In re: S. C. Cutchins
vs
Curtis Williams et als

Dear Mr. Edwards:

I acknowledge with thanks yours of the
18th instant, and the information contained therein.

I am enclosing you herewith Bill of
Complaint, which I will thank you to file in the above
styled matter. I will also thank you to let me have an
abstract of the mechanics lien, and file it with this
Bill of Complaint, filling in the blanks in paragraph marked
"Fourth".

I enclose you herewith check for \$10.00,
writ tax and deposit.

With kind regards, I am,

Yours very truly,

J. Melvin Lovelace

JML/MB
Enc.

S. C. Cutchins claims That Curtis Williams is indebted to him in The sum of \$ 200.88 for work done and materials furnished, in and about the construction of a certain room built to and added to the dwelling of The said Curtis Williams, in The County of Isle of Wight in The State of Virginia, in The village of Walters, with interest from The 30th day of May, 1928 until payment, which sum is now due and payable, having become due on May 30, 1928, and for which sum of \$ 200.88 The said S. C. Cutchins Claims a lien on The following described property of said Curtis Williams, to-wit:

All that certain piece, parcel or lot of land situated in The village of Walters in Windsor Magisterial District in the County of Isle of Wight, Virginia, whereon said Curtis Williams resides, being bounded on the North by the estate of Peter Bradshaw, deceased; on the East by the estate of Peter Bradshaw, deceased; on the South by The State Highway No. 108; on The West by The land of J. A. Williams

Given under my hand and seal this 5th day of June, 1928

S. C. Curtis Seal

State of Virginia,

City of Suffolk, to-wit

I, Mabel Jakeman, a Notary Public for the City aforesaid in the State of Virginia, do certify That S. C. Cutchins this day made oath before me in my City aforesaid, That Curtis Williams is justly indebted to him, The said S. C. Cutchins, in the sum of \$200.88, for the consideration stated in the foregoing memorandum, and That The same is payable as Therein stated.

Given under my hand This 5th day of June, 1928.

Mabel Jakeman
Notary Public.

my commission expires:

April 26, 1930.

Virginia: Clerks office of the Circuit Court of the County of Isle of Wight June 7, 1928 at 2 O'clock P.M. this Lien was recieved and with the certificate annexed, admitted to record

Teste R. A. Edwards. clerk.

a Copy.

Teste R. A. Edwards.

clerk

S. C. Atcham

Ms. 536

Ante. Williams -

Copy. mechanics
lein.

Fried.

N. a. Edwards.

ah

Exp. A.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT.

S. C. Cutchins.....Complainant

VS.....MEMORANDUM

Curtis Williams, Ella Maie Williams, E. W.
Ballard, Trustee, and W. D. Lowe.....Defendants

TO R. A. EDWARDS, CLERK OF SAID COURT.

Please issue summons against Defendants for Complainant
to first July (1928) Rules in Chancery.

J. Melvin Lovelace
P. 9.

S. C. Cutchins.....Complainant

VS.....MEMORANDUM # 536

Turtis Williams, Ella
Iris Williams et als..Defendants

6/23/28
Filed.

Dep. clk. 10⁰⁰

Chg. copy dut. cc.

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—Greeting:

WE COMMAND YOU, That you summon Curtis Williams, Ella Maie Williams
E..W. Ballard Trustee, and W. D. Lowe

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules
to be holden for the said Court on the third Monday in July, 1928,
to answer a bill in chancery, exhibited against them
in our said Court by S. C. Cutchins

And have then and there this writ.

Witness, R. A. EDWARDS, Clerk of our said Court, at the Courthouse, this 25
day of June, 1928, and in the 152 year of the
Commonwealth.

R. A. Edwards Clerk.

Executed in the County of Isle of Wight on
this 30 day of June 1928 by delivering true copies
of the within to the within named in person.

W. C. Whitehead Sheriff
By J. L. Harcum D.S.

S. C. Catelaris

25.

CHANCERY NO. 536

Catle. Melians
et al.

ORIGINAL SUBPOENA

Virginia, Clerk's office of the Circuit
Court of the County of Isle of Wight.

, 19

Returned, entered and filed.

Teste:

Clerk

To

2nd July

Rules

1928

Robert V. Harcum p. q.

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

S. C. Cutchins, -----, Complainant.

v). Chancery. NO. _____

Curtis Williams, Ella Mae Williams,
E. W. Ballard, trustee, and W. D. Lowe, -----, Respondents.

The demurrer of Curtis Williams and Ella Mae Williams, to a bill of complaint filed against them, et als., by S. C. Cutchins:

These respondents, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill contained to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur to the said bill and say that the same is not sufficient in law, and for cause of demurrer show:

1. The bill of complaint does not show that the complainant has any right to recover, either at law or in equity, from these respondents on account of the alleged mechanics lien;

2. That it appears from the said bill that neither of these complainants, nor any one, or either of them, authorized, did ever sign any contract or agreement in writing allowing or permitting the complainant to construct any building, or part of a building, on the land in the said bill of complaint set out and described, or any memorandum or note in writing of any such agreement;

3. That the circumstances related in the said bill show that the complainant is not entitled to a mechanics lien;

4. That the said bill shows on its face that the complainant, if he has any remedy at all, has a plain, adequate, efficient and complete remedy at law, and that a court of equity has no jurisdiction in the case;

Wherefore, and for divers other causes of demurrer appearing in said bill, these respondents do demur thereto, and

they pray judgement of this Honorable Court whether they, or either of them, shall be compelled to make any further or other answer to the said bill; and, they humbly pray to be hence dismissed with their reasonable costs in this behalf expended.

Johnson & Stephens p.d.

Johnson and Stephens, p. d.

Virginia: In the Circuit
Court of Isle of Wight Court

S. C. Cutchins,

v. No. 536

Curtis Williams et als.

Demurrer.

Filed : 8-28-28

R. G. Edwards
Clerk.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT:

S. C. Cutchins.....Complainant

VS.....BILL OF COMPLAINT

Curtis Williams, Ella Maie Williams, E. W.
Ballard, Trustee, and W. D. Lowe.....Defendants

TO THE HONORABLE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT:

Your Complainant, S. C. Cutchins, respectfully represents:

FIRST: That your Complainant did on the _____ day of _____
1927, enter into a certain agreement with the Defendants, Curtis
Williams and Ella Maie Williams, whereby your Complainant was to
erect a certain room adjoining to and made a part of the dwelling
house of the said Curtis Williams, the said Complainant to furnish
the material and labor and was to receive, in the way of compensa-
tion for his expenses and labor, the use and benefit of the said
room during your Complainant's natural life or as long as he saw
fit to use the same.

SECOND: That your Complainant carried out the terms of the
said agreement, he having finished the building of the room on or
about the _____ day of May, 1928.

THIRD: That the Defendants, Curtis Williams and Ella Maie
Williams, after the completion of the said room refused and still
do refuse to allow your Complainant the use and benefit of the
said room, in violation of the terms of their agreement.

FOURTH: That your Complainant filed in the Clerk's Office of
the Circuit Court of Isle of Wight County, Virginia, a mechanic's
lien on the 7th day of June, 1928, the same being of record in the
aforesaid Clerk's Office in Misc. Lien Book No. 2 page 178.

a transcript of said mechanic's lien being filed herewith and marked "Exhibit A".

FIFTH: That the said Curtis Williams and Ella Mae Williams are seized and possessed in fee simple of a certain tract, piece or parcel of land lying and being in Windsor Magisterial District, Isle of Wight County, Virginia, bounded and described as follows:

All that certain piece, parcel or lot of land situate in the village of Walters, in Windsor Magisterial District, in the County of Isle of Wight, Virginia, whereon said Curtis Williams resides, being bounded on the North by the estate of Peter Bradshaw, deceased; on the East by the estate of Peter Bradshaw, deceased; on the South by the State Highway No. 108; and on the West by the land of J. A. Williams. Said tract of land contains five (5) acres, more or less.

SIXTH: That there appears on record in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, a certain Deed of Trust from Curtis Williams and Ella Mae Williams to E. W. Ballard, Trustee, to secure W. D. Lowe, of Walters, Virginia, in the payment of \$600.00, said Deed of Trust being dated June 26, 1926, and recorded September 8, 1926, in the Clerk's Office aforesaid, in Deed Book 98 at page 72. Your Complainant does not know what amount has been paid on said Deed of Trust, or what the balance due amounts to.

SEVENTH: Your Complainant is not advised as to whether the rents and profits of the said real estate will satisfy the aforementioned liens within five (5) years.

IN CONSIDERATION WHEREOF, and for as much as your Complainant is remediless in the premises save in a Court of Equity, your Complainant prays that the said Curtis Williams, Ella Mae Williams, E. W. Ballard, Trustee, and W. D. Lowe, may be made party Defendants to this Bill, and required, but not on oath, to answer the same, the oath being hereby waived; that the balance due on said Deed of

Trust to E. W. Ballard, Trustee, be determined by this Court; that all proper Order and Decrees may be made and inquiries directed and accounts taken; that if it shall appear that the Rents and profits of the said real estate will not satisfy the said liens hereinbefore mentioned within five (5) years, the said real estate or so much thereof as may be necessary, be sold to satisfy the said lien of your Complainant; that if the rents and profits of the said real estate will satisfy the lien within five (5) years, in favor of your Complainant, the said land to be rented out and the rents and profits therefrom be applied to the said lien until the same is fully satisfied; and that your Complainant may have such further and other and general relief in the premises as the nature of this cause may require and to equity shall seem meet.

S. C. CUTCHINS

BY

J. Melvin Lovelace
His Counsel

HOLLAND & LOVELACE

P.9.

S. C. Hutchins.....Complainant

VS.....BILL OF COMPLAINT #536

Curtis Williams, Ella
Maie Williams et als..Defendants

1928
Oct 3

When received, case is
transferred to the first judge of
the County to hear & settle
same on a grand jury
B. W.

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA