1875-026
Nansemond Co. (Suffolk)

Chancery Causes: Exr of Charlotte Arthur vs P.H. Arthur

Jordan

Note: Exhibit A referred to in Bill was not found with cause when processed 12/01.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

To the SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON P. H. Arthur

to appear at the Clerk's Office of the Circuit *Court of Nansemond County, at the Rules to be held for the said Court, on the first Monday in* June *next, to answer an* Injunction *Bill in Chancery, exhibited against* him *in the said Court by* James Hargroves Executor of Charlotte Arthur deceased

and have then and there this Summons. Witness, WILLIS E. COHOON, Clerk of our said Court, at his office, this 10 *day of* May *1875, in the* 99th *year of the Commonwealth.*

Teste: W E Cohoon *Clerk of the Court.*

Memorandum,

This is to enjoin and restrain the defendant P.H. Archer, his agents, attorneys and all others from selling the tract of land in the said bill mentioned containing one hundred acres located in Nansemond County Va near Bennetts Creek, and Nansemond River until the further order of the Circuit Court of Nansemond County,

Teste: Willis E Cochran Clk

Nans d Cir Co

May 10
1875

Decree Rec'd May 10th 1875 Granted Writ ordered to issue to P.H. Archer — Staff

Recvd of C. Arthur the amt. $32.50
as part payment on purchase of my
farm

P. A. Arthur

March 21st 1879

$200.

Received of Chas Allen Arthur the Amt of two hundred dollars as part payment on my farm

P. A. Arthur

Fenton, April 8th 1873

Receipt in Part Payment
on
Farm

KNOW ALL MEN BY THESE PRESENTS, That we James Hargroves and John R. Kelly are held and firmly bound unto the ~~Commonwealth of Virginia~~ P H Archer, in the sum of one Hundred dollars, to the payment whereof, well and truly to be made to the said ~~Commonwealth of Virginia~~ P H Archer, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated, this 10 day day of May, one thousand eight hundred and seventy five

The Condition of the above Obligation is such, That whereas the above bound James Hargroves on his bill in Chancery against the said P H Archer addressed to the Judge of the ~~Hustings~~ circuit Court of the ~~City of Richmond~~ county of Nansemond, has obtained from the said Judge an injunction to injoin and restrain the said P H Archer from selling a tract of land in the said bill mentioned, containing 100 acres more or less lying in Sleepy Hole township 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 he or some one for him, shall enter into a bond with good security, in the Clerks Office of the said Court, payable to the ~~Commonwealth of Virginia~~ P H Archer, in the penalty of $100 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 James Hargroves shall pay all such costs as may be awarded against him, and all such damages as shall be incurred in case the said injunction be dissolved, then this obligation to be void, or else to remain in full force and virtue.

Executed in the presence of—

Test this 10th May 1875
W E Cothorn Clk

James Hargroves L.S.

John R. Kelly L.S.

L.S.

Ingmatius Band

Office of Warren G. Elliott,

Attorney at Law.

Commissioner for
New York.
New Jersey.
Pennsylvania.
Massachusetts.
Maryland.
North Carolina
&
Dist. of Columbia.

Norfolk, Va. _____ 187_

Jno R. Kilby Esq.

After some Conversation with Your Client, I am disposed to think that Your Case is not altogether in a proper shape for an Injunction. The Bill leads out the idea that the Defendant P. B. Aitken is a fee simple Owner of the Farm. When Mr Hargrove the Executor tells me that he holds only a life Estate. Again if a specific Execution of the Contract is sought the Parties in interest should be Parties to the Suit. And

3rd. The Defendant Aitken only seeks to sell, such interest as he holds, in the Lands, without touching upon the rights of Cestui-que-trust. (See Authorities next)

I should prefer hearing the parties in this case before granting the Injunction, & will do so at any time You may agree upon or upon notice.

Yours very truly &
Hastie.

Geo. S. Boutwell.

PUBLIC AUCTION.

I will offer for sale at public auction, before the Court-house door in Suffolk, Nansemond county, Va., on the

10TH DAY OF MAY, 1875,

(that being court day) my entire interest in a Tract of Land lying in Sleepy Hole township, on the Nansemond river, and containing

100 ACRES, MORE OR LESS,

This Farm is well adapted to trucking and has on it a good dwelling house, two stories, and all necessary outhouses, and also two beautiful young orchards.

Apply, until day of sale, to

P. H. ARTHUR,
Winton, N. C.

apl14-4t

Exhibit.

Arthur

v.

Arthur

On the motion of the plaintiff by his attorney, it is ordered that this cause be dismissed

Arthur

v

Arthur

1875

Act. Ct.

order

To be entered

Geo. T. Bloss.

Entered Ord. Bk. No 1 p 287

To the Hon. Geo. Blow, Judge of the Circuit Court of Nansemond County, Va.

Complaining shew unto the Court your complainant, James Hargrove, Executor of Charlotte Arthur dec'd—

Your Complainant respectfully represents to the Court and says, That Mrs. Charlotte Arthur (a widow lady) died in the County of Nansemond, Virginia on the day of June 1874, having first made & executed her Last Will and Testament, which was duly proved in Nansemond County Court on the 8th day of June 1874, and ordered to be recorded, and which has been duly recorded, as will be seen by a duly certified Copy of said Will & the order of Court filed herewith & prayed to be taken as part of this Bill & is marked "A"—

That the said James Hargrove, the Executor named in said Will duly qualified in the County Court of Nansemond on the said 8th June 1874, as will be seen by the Clerk's certificate on said Will—

That by the said Will, the Testatrix declares "I desire that the place formerly belonging to P. H. Arthur be rented out until my debts are paid, and by the said Will the Testatrix also says." When my desires as stated

in above items shall have been complied with, I give and bequeath to Amanda C. Jordan my right, and title in the place formerly belonging to P. H. Arthur.

That Amanda C. Jordan is a daughter of said Testatrix and now the wife of Dr. Wm T. Jordan.

Your Complainant further says, That in the spring of 1873, the said P. H. Arthur (a Physician) and son of the Testatrix, having settled in Winton, North Carolina, and desiring to build for himself a Dwelling house, and being the owner of the said Land, sold the same to his Mother, the said Testatrix for Eight hundred dollars, of which she paid him Five hundred dollars, leaving only Two hundred dollars unpaid of the purchase money; That the said Testatrix, by virtue of her said purchase took charge of the farm used the same till her death about June 1874, and by her will disposed of the same as set forth above. The Receipts for said payment of $525. are filed herewith —

That your Complainant has not as yet been acting as such Executor for a year, & cannot under the Law pay any debts till the expiration of a year from his qualification, without assuming the insolvency of the Estate, which he cannot do, though he feels confident that the

Testatrix' estate is ample to pay all the debts of the Testatrix.

That the Testatrix contemplated by her will that the rent of said farm would in a reasonable time pay her debts, & your complainant has rented the same out for 1875 for $150, and besides this there is ample to pay the Balance due said P. H. Arthur on said Land, That Wm. Frank Arthur a Brother of said P. H. Arthur, and son of the Testatrix owes the estate of said Testatrix a debt, more than ample to pay the Balance due said P. H. Arthur, which your Complainant expects to realize this fall, & that by the expiration of the year he will be able to pay the Debt due said P. H. Arthur,

That the said farm consists of one hundred acres, has a comfortable dwelling & young orchard and is located in Nansemond County Va near Bennetts Creek & Nansemond River.

That notwithstanding these facts, The said P. H. Arthur, is unwilling to wait the short time referred to, for the payment of the small Balance due him, but has advertised the said Land for sale at May County Court, now near here, as will be seen by a copy of the advertisement cut from the Suffolk Herald, a newspaper published in Suffolk marked "B" —

your Complainant is advised and says, That a Court of Equity will not allow the said P. H. Arthur to sell the said Land under these Circumstances, until a reasonable time is allowed the said Executor to collect the money due the Testatrix's Estate to pay the same —

That a sale under such circumstances would work a great hardship on said Testatrix's estate Particularly as Mrs. Amanda C. Jordan, a married Lady, whose interests would be sacrificed by such sale

In Consideration thereof and as this Court has jurisdiction to grant an adequate Relief, To the end your Complainant prays That the said P. H. Arthur may be made defendant unto & be compelled to answer the allegations herein on oath;

That the said P. H. Arthur, his agents, attorneys and all others may be enjoined & restrained & prohibited from selling the said Land unless permitted by the Court, and that as soon as your Complainant shall have paid the said P. H. Arthur, the Balance due on said Land, he may be required to execute a Deed to your Complainant as such Executor for said Land; and that all other & further relief may be granted, Consistent with Equity, and the

the rights of the parties,

and yr Complainant will ever pray &c.

James Hargroves Exector

John R Kilby, atty

Virginia

Nansemond County, to wit.

I, Wilbur J. Kilby, a Notary Public in and for said County, State of Virginia, do certify that this day James Hargroves, Executor of Charlotte Arthurs dec'd personally appeared before me, & made oath that the foregoing Bill contains the Truth to the best of his knowledge & belief

Given under my hand this 23rd day of April 1895.

Wilbur J. Kilby
Notary Public

In vacation —

an injunction is awarded the plaintiff against the defendant. P H. Arthur, his agent, attorney & all others, according to the prayer in the within Bill — But before proof shall issue in this case, the plaintiff or some one for him, shall execute before the Clerk of this Court in his office a Bond in the penalty of one hundred dollars, conditioned according to law payable to the defendant.

Geo. T Bloss

Judge &c

To the Clerk of
Circuit Court of
Jefferson County.

Kelly Atty

James Harjune, Exr
of C. Arthur dec'd

v.

P. H. Arthur

1

In the Circuit Court of Nansemond County

Jas Hargroves admr Charlotte Arthur. Pltf } Chy
v
P H Arthur Dft }

Notes of Proceedings

1875 May 10. Bill & restraining order filed,
Bond executed & process issued to June
Rules 1875

1875 June Rules, Decree nisi vs Dft,

1875 July Rules decree nisi confirmed & cause set for hearing

" Octo. 12th. Dismissed

Clay Notes