1906-010
Nansemond Co (Suffolk) Chancery Causes: Kelly & Borum vs Peter Whaley

Lloyd, Suffolk Lumber Co]

Circuit Court.

Tuesday after the secoud Monday in April and October.

HON. ROBERT R. PRENTIS, Judge.
AZRA P. GOMER, Clerk.

County Court.

Secoud Monday in each month.

HON. WILBUR J. KILBY, Judge.
ROBERT R. SMITH, Clerk.
E. E. HOLLAND, Commonwealth's Attorney.
ALEX. H. BAKER, Sheriff.
SYDNEY T. ELLIS, County Treasurer.
JOHN B. PINNER, Commissioner of Accounts.

Nansemond County Clerks' Office.

Suffolk, Va., ----------, 190---

VIRGINIA, NANSEMOND COUNTY, TO-WIT:

At rules held in the Clerk's office of the Circuit Court of the county of Nansemond, on the 15th day of August, 1904.

Kelley and Borum..... .....Plaintiffs
v.
Peter Whaley..... .....Defendant

The object of this suit is to recover against the defendant, Peter Whaley, a judgment in favor of the plaintiffs for the sum of three hundred and ninety-six dollars and sixty eight cents ($396.68) with legal interest on one hundred and thirty-nine dollars and forty-five cents ($139.45) from July 10, 1904, until payment; with interest on one hundred and sixteen dollars and thirty-three cents ($116.33) from July 16, 1904, until payment; and with interest on one hundred and forty dollars and ninety cents ($140.90) from July 25, 1904, until payment, and to attach the estate and debts of the said defendant, Peter Whaley, in the county of Nansemond, Virginia, and subject the same to the payment of said judgment when obtained. An affidavit having been made that the defendant, Peter Whaley, is not a resident of the State of Virginia, and that he has estate or debts due him in this county, and the attachment in this action having been returned executed, and it appearing that said defendant has not been served with a copy of said attachment, nor with process in this action, it is ordered that the said defendant, Peter Whaley, appear here within fifteen days after due publication of this order and do what is necessary to protect his interests in this action.

Teste: A. P. GOMER, D. C.
MCLEMORE & CORBITT, p. q.
A Copy—Teste:
A. P. GOMER, D. C.

A Copy of the above order was posted at the front door of the Courthouse of Nansemond County on the 27th day of August 1904

Order of
Publication

To the Clerk of the Circuit Court for the County of Nansemond.

W. Lane Kelly, trading as Kelly & Borum, Plaintiff.

v.

Peter Whaley, Defendant.

Issue summons in chancery to Rules the third Monday in July, 1904.

McLemore & Corbitt, p.q.

Tax $1.50

Kelley & Bowen
vs
Peter Whaley
Chancery

July 17th 1911

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND, JULY 11th, 1904.

W. Lane Kelly, trading as
Kelly & Borum,

v.

Peter Whaley.

James L. McLemore, Attorney for and on behalf of W. Lane Kelly, trading as Kelly & Borum, maketh oath and saith that he believes that the claim of the plaintiff asserted in this suit is just, that he believes the plaintiff is entitled to or ought to recover in this suit the sum of Three Hundred and Ninety-seven and 18/100 Dollars with interest on $139.45 from July 10th, 1904 until payment, with interest on $116.83 from July 16th, 1904 until payment and with interest on $140.90 from July 25th, 1904 until payment (at the least), that of the said sum of $397.18 $139.45 is already due and payable, the sum of $116.83 will be due and payable on July 16th, 1904 and the sum of $140.90 will be due and payable on July 25th, 1904, and that he believes the defendant is a non-resident of this state, and has estate or debts owing to him within the county of Nansemond, or is sued with a defendant residing therein.

James L. McLemore Attorney for and on behalf of W. Lane Kelly, trading as Kelly & Borum

Sworn to before me this 11th day of July, 1904.

C. P. Gomer D.C.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Peter Whaley

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 Third Monday in July, 1904, to answer a Bill in Chancery, exhibited against him in the said Court by W. Lane Kelly, trading as Kelly & Borum,

and have then and there this summons.

Witness, ~~A. P. GOMER,~~ R R Smith Clerk of our said Court, at his office, this 11th day of July, 1904, in the 129th year of the Commonwealth.

A copy—Teste:

_____, CLERK.

Teste: A P Gomer D C, CLERK.

Levied on the following real estate of the defendant, Peter Whaley, to-wit: All those certain tracts, pieces or parcels of land situated in the eastern suburbs of the Town of Suffolk and known as lots Nos. 39, 40, 41, 42, 43 and 44 in that plot of building lots opened by M. F. Lloyd and known as "East Suffolk," and being more fully described in deed from M. F. Lloyd and Maggie H. Lloyd, his wife, to Peter Whaley, dated the 19th day of December, 1889, and recorded in D.B. 23, page 166 in Nansemond County Court Clerk's Office, this the 11 day of July, 1904. No person was in possession of said estate.

A W Baker

Peter Whaley
not found in my
County A W Baker Sheriff

July 11th 1904

McLemore Cordell p. q.
Kelly & Borum
vs.
Peter Whaley
In Chancery.
July 1904
Rules.
Monday.
Nansemond Circuit Court.
Process Book No. 21
Page 255

COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Nansemond, GREETING:

Whereas, at the time of the institution of the within suit in chancery in our CIRCUIT COURT of the COUNTY of NANSEMOND, brought by W. Lane Kelly, trading as Kelly & Borum, against Peter Whaley, to recover in said suit a debt due the plaintiff, there has been filed in the Clerk's Office of our said Court a bill in equity (filed for the purpose of an attachment) and an affidavit that the claim of the plaintiff asserted in the said suit is believed to be just, and that he ought to recover Three Hundred and Ninety-seven and 18/100 Dollars with interest on $139.45 from July 10th, 1904 until payment, with interest on $116.83 from July 16th, 1904 until payment and with interest on $140.90 from July 25th, 1904 until payment (at least), that of the said sum of $397.18 $139.45 is already due and payable, the sum of $116.83 will be due and payable on July 16th, 1904 and the sum of $140.90 will be due and payable on July 25th, 1904; and that the defendant, Peter Whaley, is not a resident of this State, and that he, the affiant, believes that the said Peter Whaley, defendant, has estate or debts owing to him within the said county. Therefore, we command younthat you attach the estate of the said Peter Whaley for the amount of Three Hundred and Ninety-seven and 18/100 Dollars, with interest on $139.45 from July 10th, 1904 until payment, with interest on $116.83 from July 16th, 1904 until payment and with interest on $140.90 from July 25th, 1904 until payment and such estate, so attached, in your hands to secure, or so to provide, that the same may be forthcoming and liable to further proceedings thereupon to be had before our said court, at the next October term thereof; and that you make return hereof at the Rules to be held in the Clerk's Office of our said court on the third Monday in July, 1904 how you have executed the same. And have then there this writ.

Witness, R. R. Smith, Clerk of our said Court, at the court-house, the 11th day of July, 1904, and in the 129th year of the Commonwealth.

A P Gainey D.C

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

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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 Third Monday in July, 1904, to answer a Bill in Chancery, exhibited against him in the said Court by W. Lane Kelly, trading as Kelly & Borum ,

and have then and there this summons.

Witness, ~~A. P. GOMER~~ R R Smith, Clerk of our said Court, at his office, this 11th day of July, 1904, in the 129th year of the Commonwealth.

A copy. Teste:
A P Gomer, D. C. CLERK.

Teste:
A P Gomer D. C. CLERK.

Peter Whaley not found
in My County July 11th 1904
A. W. Bailey
Sheriff

Nansemond Circuit Court p. q.

W. Lane Kelly trading as
Kelly & Borum
vs. | In Chancery.
Peter Whaley

1904
July ---- Rules.
Third ---- Monday.

Nansemond Circuit Court.
Process Book No. 21
Page 255

COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Nansemond, GREETING:

Whereas, at the time of the institution of the within suit in chancery in our CIRCUIT COURT of the COUNTY of NANSEMOND, brought by W. Lane Kelly, trading as Kelly & Borum, against Peter Whaley, to recover in said suit a debt due the plaintiff, there has been filed in the Clerk's Office of our said Court a bill in equity (filed for the purpose of an attachment) and an affidavit that the claim of the plaintiff asserted in the said suit is believed to be just, and that he ought to recover Three Hundred and Ninety-seven and 18/100 Dollars with interest on $139.45 from July 10th, 1904 until payment, with interest on $116.83 from July 16th, 1904 until payment and with interest on $140.90 from July 25th, 1904 until payment (at least), that of the said sum of $397.18 $139.45 is already due and payable, the sum of $116.83 will be due and payable on July 16th, 1904 and the sum of $140.90 will be due and payable on July 25th, 1904; and that the defendant, Peter Whaley, is not a resident of this State, and that he, the affiant, believes that the said Peter Whaley, defendant, has estate or debts owing to him within the said county. Therefore, we command younthat you attach the estate of the said Peter Whaley for the amount of Three Hundred and Ninety-seven and 18/100 Dollars, with interest on $139.45 from July 10th, 1904 until payment, with interest on $116.83 from July 16th, 1904 until payment and with interest on $140.90 from July 25th, 1904 until payment and such estate, so attached, in your hands to secure, or so to provide, that the same may be forthcoming and liable to further proceedings thereupon to be had before our said court, at the next October term thereof; and that you make return hereof at the Rules to be held in the Clerk's Office of our said court on the third Monday in July, 1904 how you have executed the same. And have then there this writ.

Witness, R. R. Smith, Clerk of our said Court, at the court-house, the 11th day of July, 1904, and in the 128th year of the Commonwealth.

A. G. Lowery D.C.

IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND,

VIRGINIA.

Kelly & Borum,

v. IN CHANCERY

Peter Whaley.

On motion of the complainant this cause is ~~removed~~ dismissed from the docket.

Kelly & Borum

v. DECREE

Peter Whaley.

Enter this 23 day of

July, 1906.

Roberts C. Adkins

Entered in Chancery
Order Book No. 4.
Page 81.

To the Honorable Robert R. Prentis, Judge of the Circuit Court of Nansemond County.

Complaining showeth unto the Court your complainant, W. Lane Kelly, trading as Kelly & Borum, that Peter Whaley, a non-resident of the State of Virginia, is indebted to him in the sum of Three Hundred and Ninety-seven and 18/100 Dollars with interest on $139.45 from July 10th, 1904 until payment, on $116.83 from July 16th, 1904 until payment and on $140.90 from July 25th, 1904 until payment, of which amount $139.45 is already due and payable; the sum of $116.83 will be due and payable on July 16th, 1904; and the residue of $140.90 will be due and payable on July 25th, 1904.

That no part of said indebtedness has been paid.

That the said defendant, Peter Whaley, has, as your orator believes, real estate in the County of Nansemond, bounded and described as follows:

First- All those certain tracts, pieces or parcels of land situated in the eastern suburbs of the town of Suffolk and known as lots Nos. 39, 40, 41, 42, 43 and 44, in that plot of building lots opened by M.F.Lloyd and known as "East Suffolk," and being more fully described in deed from M.F.Lloyd and Maggie H. Lloyd, his wife, to Peter Whaley, dated the 19th day of December, 1889, and recorded in D.B. 23, page 166 in Nansemond County Court Clerk's Office.

Second- All that tract, piece or parcel of land situate, lying and being in the village of Whaleyville in the County of Nansemond and State of Virginia, containing 10,560 square feet, and being more fully described in deed from Suffolk Lumber Co. to Peter Whaley, dated the 12th day of August, 1895, and recorded in Nansemond County Court Clerk's Office in D.B. 36, page 307.

That the said defendant has no other property in the State of Virginia known to the orator out of which said debt, or any portion thereof, could be recovered.

That at this time there is already issued in favor of Oberndorfer & Co., of the city of Norfolk, an attachment against the said real estate, and your orator believes that unless an attachment is issued in his favor against the real estate of the said defendant, there will be nothing out of which he can realize the amount due him when he shall have obtained judgment.therefor, should only the ordinary processes of law be employed in his behalf, and he is, therefore advised that he has a right to sue out from the Clerk's Office of the said Circuit Court of Nansemond County an attachment in equity against the said property, as provided for in the Code of Virginia, Section 2964.

In tender consideration whereof, and forasmuch as your orator is remediless in the premises, save by the aid of the court of equity where matters of this kind are alone and properly cognizable, he prays that Peter Whaley may be made a party defendant to this bill, and required to answer same, but an answer under oath is hereby expressly waived. That this court may enter a decree with the force and effect of a judgment innfavor of the plaintiff against the defendant for the aforesaid sum of Three Hundred and Ninety-seven and 18/100 Dollars together with interest due thereon as shown by the notes evidencing such indebtedness.

That the real estate owned by the said defendant may be attached and your orator's lien given priority to the extent of his indebtedness and that same may be sold under direction of this court, and the funds arising therefrom applied ~~according~~ to the debt of your orator, and other liens, as their priorities may appear, and all such orders and decrees may be entered, such inquiries directed and such other general and special relief granted your orator as the nature of this case may require or to equity shall seem meet.

Notice is hereby given that the Court will be asked to allow reasonable attorney's fee for plaintiff's counsel conducting this cause.

And your orator will ever pray, etc.

McLennan & Corbitt
P.Q.

Kelly & Borrus
V. 3 Bill -
Peter Whaley

McSmore & Corbett.
- attys -

Kelley V Bowne

28 In Chancery

Peter Whaley

1904 July 4th Process issued returnable
to July Rules third monday.

" " " Process Returned and Lots
Nos. 39. 40. 41. 42. 43. & 44 levied on

" Aug 19th Order of Publecation
Bill filed and decree nisi.

" Oct 15th Set for hearing on order of
publication

Chancery Notes

McLemore & Corbitt p.q.

Kelley & Brown

vs } In Chancery

Peter Whaley

1906

July 23rd

Final Decree.

Kelley & Brown vs Peter Whaley

Costs

Clerk	4.85
Jury	1.50
Sheff	1.50
Atty	15.00
	$22.85
Lis Pens.	1.25
	$24.10

Paid.