1915-014
Nansemond Co (Suffolk)

Chancery Causes: Felix Brinkley vs W.H Morris et al

Hosier, Phithower, Lloyd Place Corp I, Wyeth, Crump

February 8, 1915.

Received of Wm. M. Crumpler and L. P. Holland, Special Commissioners, the sum of $2.00, same covering my services in suit of Felix Brinkley vs. W. H. Morris, et als.

A. A. Bell

February 8, 1915.

Received of Wm. M. Crumpler and L. P. Holland, Special Commissioners, the sum of $6.51, covering cost due R. R. Smith, Clerk, in suit of Felix Brinkley vs. W. H. Morris, et als, same being charged personally to him.

Wm. M. Crumpler

February 8, 1915.

Received of Wm. M. Crumpler and L. P. Holland, Special Commissioners, the sum of $15.00, the same being in settlement of attorney's tax fee in suit of Felix Brinkley vs. W. H. Morris et als.

Thos. W. Lawrence

September 16, 1914.

Received of L. P. Holland and William M. Crumpler, Special Commissioners, in the Chancery cause of Felix Brinkley vs. W. H. Morris et als, the sum of $55.00 in part settlement of indebtedness due me.

Felix Brinkley by
Wm. M. Crumpler Atty.

January 14, 1915.

Received of L. P. Holland and William M. Crumpler Special Commissioners, in the Chancery cause of Felix Brinkley vs. W. H. Morris et als, the sum of $115.52 in full settlement of indebtedness due me.

Felix Brinkley,

By Wm. M. Crumpler, his atty.

Mr. N. W. Crumpler

TO R. R. SMITH, CLERK CIRCUIT COURT
OF NANSEMOND COUNTY
SUFFOLK, VA.

1910 vs.

Sept.	15	~~TRANSFER FEE FOR COMR.~~		
		STATE TAX.	50	
		CLERK'S FEES.	150	
		recording Mechanics Lien - Felix Brinkley vs. N. H. Morris		200

Paid 191 Clerk.

W. M. Brumpler and L. P. Hall and

Suffolk, Va., Jany 1 1915

M

To J. E. McGUIRE, Dr.

THE BEST IN
PRINTING

606 Main Street

Office Suffolk Printing and Stationery Co.

Aug 13 [illegible] Bills advt Sale Morris Land 1 00

Paid
J. E. McGuire

6.17
Amount

Folio 737
Terms -- Cash.

Suffolk, Va., Dec. 31st, 1915

Mr. W. M. Crumpler, Mgr. L. D. Holland, Special Com. Agt.
City.

TO WEST & WITHERS, DR.

Fire, Life, Marine, Accident, Health, Employers' Liability,

AND STEAM BOILER INSURANCE AND SURETY BONDS

P. O. Box 103 — OFFICE, No. 936 WASHINGTON STREET. — Bell Phone No. 10

1915

Date	Policy No.	Company	Property Insured	Amount	Premium
Aug. 10th	105983	For Dupont Co. (Bond, Speelman Brinkley Va. Whitehouse, Ntale.			10 00

Paid 1/9/15
West & Withers

.....p. q.

Copy of Costs
Taxed in the Suit of:

Felix Brinkley

vs.

H. H. Morris et als

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

Writ Tax		
Clerk G. E. Brinkley.		8 22
Sheriff		
Attorney		
Commissioner		
Printer, for Order of Publication, etc.		

Date of Judgment or Final Decree 191

Paid Feb. 8, 1915 — G. E. Brinkley,
Clerk

Suffolk, Va., Feb 10 1910

Mr W. H. Morris

BOUGHT OF **FELIX BRINKLEY**

DEALER IN

Sash, Doors, Blinds, Hardware and Building Materials

Fine Cutlery, Pumps, Paints, Oils, Glass, Etc., Etc.

No. 827 Washington Street, Smith's Block

X	8	Windows	14×32	4			
X	4	"	14×32	4			
X	10	"	14×30	4		33 00	
X	1	"	12×16	4		1.35	
X	1	"	2 10½ × 4 ft.	14 inch circle on top		2.25	L 25
X	4	Circles 18" Diam				3.00	
X	1	Door 2⁰ × 6¹⁰		1 3/8		2.25	7.97
X	1	Pr Side Lights	12 × 6¹⁰			2 00	
X	1	Transom	12"			.85	
X	3	Doors	2⁸ × 6⁸	1 3/8		4.50	
X	2	"	2⁸ × 6⁸			2.70	
X	2	"	2⁸ × 6⁸	1/4 #2		4.00	
X	12	Pr Blinds	14 × 32	4			
X	10	" "	14 × 30	4			
X	1	" "	12 × 32	4		27.60	
X	23	Sets " Hinges				2.88	86.38
X	690	lbs Sash Weights					10.35
X	8	" " Cord					2.40
X	8	Door 2 × 6					4.40
X	10	Pr Door Hinges					.85
X	5	Doors 2⁸ × 6⁸	1½ #2				6.50
X	5	Pr Hinges					.40
X	8	Locks					1.60
X	6	"	Brass Bolts				2.10
X	3	Pr Hinges					.24
X	3	Closet Locks					.38
X	23	Sash Locks					.95
X	23	" Lifts					.35
						11 68	
						3.50	
any X	11	Lo 1 Window	14 × 30	4		13.47	
X		" 1 Pr Blinds	14 × 30	4		1.50	
X		" 1 Pair Hges				1.25	
X		" 30 lbs weights				.12	
X		" 1 Lock + Lift				.45	
X		" 1 Pr Doors	3 × 8	1 3/4		8.00	
X		" 1 Pr PD Hangers				.35	
X		" 1 Front Door Lock				1.50	
X		" 24 lbs weights				.36	X
		" 1 Slide Door Lock				130.08	
						1.75	
						131.83	
						102.27	
						29.56	

X	6	Window 12 x 32			
X	4	" 20 x 32			
X	10	" 16 x 32		33.00	
X	1	" 12 x 16		1.00	
X	1	2 Lights 4 Panel Door		2.50	
X	1	Skylight 4 Lights 18"		1.50	
X	1	Skylight	12 x 62	2.25	
X	1	Sash	12 x 52	1.00	
X	1	Sash Screen	26 x 62	3.50	
X	3	Door	28 x 82 #2	5.25	
X	5	"	28 x 68 #2		
X	5	"	28 x 68 #2	13.50	19.90
X	5	"	24 x 68 #2	4.50	
X	1	"	24 x 80 #2		
X	1	"	14 x 30 #3	2.00	
X	22			3.75	
			58 - 2m 40 16 - 2 60	10.35	
X	1			2.75	
X	23			.95	
X	1			.45	
X	10			1.50	
X	1			.25	
X	1			1.40	
X	1			2.40	
X	1			.30	118.75
X	1	Front Door "			1.50

1 Circles Glass with yellow
Door side Lights Chipped

X	1	Window 14 x 30	4	1.50	
	1	pr Blinds 14 x 30	4	1.25	
	1	Pat Hinges			
X	1	pr Blinds 14 x 28		1.40	
X	1	Window 14 x 28		1.15	
	1	pr Doors 6 x 8	1¾		
X	1	Pat " Hinges + Knob		3.35	
				8.65	
				1.50	
				10.15	
				113.75	
				123.90	
				101.95	
				21.75	

28
8
224

Suffolk, Va., May 14 1910

M W. H. Morris

BOUGHT OF FELIX BRINKLEY

DEALER IN

Sash, Doors, Blinds, Hardware and Building Materials

Fine Cutlery, Pumps, Paints, Oils, Glass, Etc., Etc.

No. 827 Washington Street, Smith's Block

	8	Windows	14 x 32	4	
	4	"	14 x 32	4	
	10	"	14 x 30	4	33 00 ✓
	1	"	20½ x 44½		2 50 ✓
	4	Circles	18" Val glass		1 50 ✓
	1	pr Side Lights	12 x 6⁰		2 00 ✓
	1	Transom	12 x 8½		1 00 ✓
	1	Sash 2⁰ x 6⁰	1⅜ Door		3 50 ✓
	3	Panel Doors	2⁸ x 6⁸ x 1½		5 25 ✓
	12	pr Blinds	14 x 32	4	
	10	"	" 10 x 30	4	22 40 ✓
	22	Sets	" Hinges		3 75 ✓
	690	lbs Sash	Weights		10 35 ✓
	40	"	" Cord		2 75 ✓
	23		" Locks		9 51 ✓
	23		" Lifts		4 51 ✓
	5	pr Butts	3 x 3		40 ✓
	1	"	" 3½ x 3½	oc	25 ✓
	57	Locks @ 35			1 75 ✓
	1	Front Door Lock			1 50 ✓
May 28	1	Window	14 x 30	4	1 50 ✓
	1	pr Blinds	14 x 28	4	1 40 ✓
	1	"	14 x 28	4	1 35 ✓
	1	"	" 14 x 30	4	1 25 ✓
	1	Set P. D. Hangers & Irons			3 35 ✓ 101 95
June 21	21	lbs Weights	Extra		32
					102 27
					29 85
	1	Window	20½ x 30	Pantry 4 12	132 12
	1	Side "	12 x 6⁰	" 4 12	

487 lbs weights
224 " "
711

LAW OFFICE
WILLIAM M. CRUMPLER
SUFFOLK, VIRGINIA

PINNER BUILDING
BOTH PHONES

November 10th, 1910.

R. R. Smith, Esq.,

City.

Dear Sir:

Within please find memorandum for chancery suit of Felix Brinkley against W. H. Morris and others upon which you will please issue process.

Yours very truly,

W. M. Crumpler

To R. R. Smith, Clerk of the Circuit Court of Nansemond County, Virginia.

Felix Brinkley,	Plaintiff.	)
Vs.		) In Chancery.
W. H. Morris, Ida Morris, J. W. Hosier, trustee, and R. P. Philhower, beneficiary,	Defendants.	)

Issue summons for plaintiff against defendants returnable to the first rules in December (1st Monday), to answer a bill in chancery.

William M. Cumming p.q.

CHANCERY SUMMONS.

THE COMMONWEALTH OF VIRGINIA.

TO THE ~~SHERIFF OF NANSEMOND COUNTY~~ ~~Sergeant of the City of Suffolk~~ Sheriff of Nansemond County — GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON W. H. Morris, Ida Morris, J. W. Hosier, trustee and R. P. Philhower, beneficiary,

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 December, 1910, to answer a Bill in Chancery, exhibited against them in the said Court by Felix Brinkley

And have then and there this summons.

Witness. R. R. SMITH, Clerk of our said Court. at his office, this 11th day of November, 1910, in the 135th year of the Commonwealth.

~~A copy. Teste:~~

~~, CLERK.~~

Teste:

R. R. Smith, CLERK.
By A. L. Pretty, D.C.

Wm. M. Crumpler p. q.

Felix Brinkley

vs. } In Chancery.

W. H. Morris, Ida Morris

J. Hosier Trustee &

R. C. Phillpotts, Beneficiary

1910

December Rules.

First Monday.

NANSEMOND CIRCUIT COURT.

Process Book, No. 3

Page 91

CHANCERY SUMMONS.

THE COMMONWEALTH OF VIRGINIA.

TO THE ~~SHERIFF OF~~ Sergeant of the City of Suffolk ~~NANSEMOND COUNTY~~ —GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON W. H. Morris, Ida Morris, J. W. Hosier, trustee and R. P. Philhower, beneficiary

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And have then and there this summons.

Witness. R. R. SMITH, Clerk of our said Court, at his office, this 11th day of November, 1910, in the 135th year of the Commonweath.

~~A copy Teste:~~

~~CLERK.~~

Teste:

R. R. Smith, CLERK.
By D. L. Pretty, D.C.

Wm. M. Crumpler p. q.

vs. Felix Brinkley

vs. } In Chancery.

H. H. Morris, Ida E. Morris,
J. H. Hosier Trustee &
R. C. Riehlowe, Beneficiary

1910

December Rules.

First Monday.

NANSEMOND CIRCUIT COURT.

Process Book, No. 3

Page 21

Fee 12 cts
Wm. M. Crumpler
vs
Felix Brinkley
Ord. entered
Nov 1st 1910
Felix Brinkley
vs
H. H. Morris
Ida E. Morris
J. H. Hosier Trustee
R. C. Riehlowe
Beneficiary
Nov 2nd 1910
Ord. entered

G. E. Bunting,

I, ~~AZRA P. SUMLER~~, Clerk of the Circuit Court of Nansemond County, Virginia, do certify that the bond required of William M. Crumpler and L. P. Holland, *as Special Commissioners under the decree of said Court made on the* 27th *day of* July, 1914, *in the Chancery cause pending in said court between* Felix Brinkley, *complainant, and* W. H. Morris, & als, *defendants, has been executed with security deemed sufficient by me.*

Given under my hand this 12th *day of* August, 1914.

G. E. Bunting, *Clerk.*

BY S. J. Parker, D.C.

Priorities between deed of trust & mechanic lien.

If a mechanic's lien is recorded on property upon which there is a deed of trust, recorded before work began on the building or structure placed thereon, the deed of trust creditor is entitled to priority of satisfaction to the extent of the estimated value of the property without the improvements for which the lien is claimed. The value is to be estimated as of the date of sale, and may be fixed either directly by the court upon the testimony of witnesses, or by reference to a commissioner, subject to exceptions to his report.

Fidelity Loan & Trust Co. v. Dennis et als., 93 Va. 504.

Where a mechanics' lien is recorded against property on ~~xxxxxxx~~ which there is a prior deed of trust , the trust creditor has priority only to the extent of the value of the land, exclusive of the buildings or structures placed thereon by the mechanic since the lien of the deed of trust was created, and the value of the land is to be ascertained at the time the liens are enforced by the court. The value of the land is to be fixed by the court before sale, and the court may fix such value either from evidence submitted to it, directly, or through the finding of a commissioner, subject to review by the court. The value so fixed is all that the trust creditor can get from the proceeds of sale until the mechanics' liens thereon have been satisfied.

Hudson v. Barham, 101 Virginia, 64.

4

If a mechanic's lien is recorded on property upon which there is a deed of trust, recorded before work began on the building or structure placed thereon, the deed of trust creditor is entitled to priority of satisfaction to the extent of the estimated value of the property without the improvements for which the lien is claimed. The value is to be estimated as of the date of sale, and may be fixed either directly by the court upon the testimony of witnesses, or by reference to a commissioner, subject to exceptions to his report. Fidelity Loan, etc. Co. v. Dennis, 93 Va., 504, 25 S. E. 546; Hudson v. Barham, 101 Va., 63, 43 S. E. 189.

9 Ency. Dig. Va. & W. Va. Rep., 774.

Felix Brinkley

vs

Morris

VIRGINIA

In the Circuit Court of Nansemond County.

Felix Brinkley,

vs.

W. H. Morris, et als.

L. P. Holland and William M. Crumpler heretofore appointed special commissioners in this cause, beg leave respectfully to report, that previous to any sale by virtue of the decree of July 27, 1914, by which they were constituted and appointed such commissioners, the said W. H. Morris has liquidated the indebtedness of the complainant, Felix Brinkley, both the lien and the personal judgment created by the decree, by reason of which they have refrained from any sale of the property and beg leave herewith to report their disbursement of the funds collected from the said W. H. Morris as follows:

1914.			
Sept. 16	By cash collected from W. H. Morris.	$55.00	
" "	To cash paid Felix Brinkley.		$55.00
1915.			
Jan. 9	By cash collected from W. H. Morris in full of balance, principal, interest, and cost due the plaintiff, Felix Brinkley.	159.50	
" "	To cash paid West & Withers, in settlement of premium on bond.		10.00
" 14	To cash paid Felix Brinkley, in full settlement of balance due him.		115.32
	Amount carried forward.	214.50	180.32

	Amount brought for'd.	214.50	180.32
1915.			
Jan. 15	To cash paid J. E. McGuire for hand bills, per voucher.		1.75
Feb. 8	To cash paid Geo. E. Bunting, Clerk, in settlement of writ tax and his cost, per voucher		8.92
" "	To cash paid Wm. M. Crumpler, in settlement of attorney's writ tax, per voucher		15.00
" "	To cash paid A. H. Baker, Sheriff, for services, per voucher,		2.00
" "	To cash paid Wm. M. Crumpler in settlement for cost due R. R. Smith, charged personally to him.		6.51
		$214.50	$214.50

Respectfully submitted,

Wm. M. Crumpler

L. P. Holland

To W. H. Morris, Ida Morris,
J. Walter Hosier, trustee, and
R. P. Philhower, beneficiary:

Take notice that on the second day of January, 1913, at the office of Wm. M. Crumpler, in Suffolk, Virginia, between the hours of 10 A. M., and 6 P. M. of that date, I shall proceed to take the depositions of Elmer Brinkley and others to be read as evidence in my behalf in a certain suit in equity depending in the Circuit Court of Nansemond County wherein I am plaintiff and you are defendants; and, if for any cause, the taking of the said depositions be not commenced, or if commenced be not concluded on that date, the taking thereof will be adjourned from day to day, or from time to time, at the same place and between the same hours until the same shall be concluded.

Respectfully yours,

Felix Brinkley,

By Wm. M. Crumpler

Counsel.

Executed this 27th. Day of December 1912
by me within my County of Nansemond,
Virginia, by delivering a copy of the within
notice in person to the said Ida Morris,
& by delivering a copy thereof for the said
H. H. Morris to the said Ida Morris, his wife, at
their usual place of abode within my said County,
the said H. H. Morris being absent.

H. T. Gilliam
Sheriff

To W. H. Morris, Ida Morris,
J. Walter Hosier, Trustee, and
R. P. Philhower, beneficiary.

Take notice that on the second day of January, 1913, at the office of Wm. M. Crumpler, in Suffolk, Virginia, between the hours of 10 A. M. and 6 P. M. of that date, I shall proceed to take the depositions of Elmer Brinkley and others to be read as evidence in my behalf in a certain suit in equity depending in the Circuit Court of Nansemond County wherein I am plaintiff and you are defendants; and if for any cause, the taking of the said depositions be not commenced, or if commenced, be not concluded on that date, the taking thereof will be adjourned from day to day, or from time to time, at the same place and between the same hours until the same shall be concluded.

Respectfully yours

Felix Brinkley,

By Wm. M. Crumpler

Counsel.

I have on this 27th Dec 1912
served and executed the within
Notice by delivering a true
copy in writing to J Walker Watson
and R P Pulliam in the
city of Richmond Va

W B Beverley
Dy Sheriff

VIRGINIA

In the Circuit Court of Nansemond County.

Felix Brinkley

vs.

W. H. Morris, Ida Morris,
J. W. Hosier, trustee, and
R. P. Philhower, beneficiary.

This cause came on this day to be heard upon the bill of complaint and the exhibits filed therewith, the depositions of witnesses duly filed; and was argued by counsel.

On consideration whereof the court doth adjudge, order, and decree that the said plaintiff, Felix Brinkley, is entitled to a first lien upon the premises mentioned and described in the bill of complaint and hereinafter bounded and described for the sum of One Hundred Two and 92/100 ($102.92) Dollars with interest thereon from the 4th day of June, 1910, and that he is further entitled to a personal judgment against the said W. H. Morris for the sum of Thirty-one and 20/100 ($31.20) Dollars, with interest thereon from the 4th day of June, 1910, until paid and to effectuate such personal judgment, it is further adjudged, ordered, and decreed that this decree be and the same is hereby given the force and effect of a personal judgment to be forthwith docketed by the Clerk of this court as the law requires.

And it is further ordered, adjudged, and decreed that L. P. Holland and Wm. M. Crumpler be and they are hereby appointed commissioners of this court for the purpose of offering at public sale for cash the premises

bounded and described as follows,- "Those certain lots, pieces, or parcels of land in Nansemond County, Virginia, being known, numbered, and designated on the plat or plan of Lloyd Place Corporation, duly of record in the Office of the Clerk of Nansemond County, Virginia, in D. B. No. 64, page 570, as lots numbers sixteen (16) and seventeen (17) in block M. as shown on map above referred to, each of said lots fronting thirty (30) feet on the East side of Fifth Street and running back therefrom between parallel lines a distance of one hundred and ten (110) feet",- for the satisfaction of the lien aforesaid, which they shall do by advertising the same by posters for fifteen (15) days in at least three or morepublic places, unless the lien of the said Felix Brinkley shall have been paid and discharged within ten days from this date, but said commissioners shall, in no event, sell said property, or advertise same till after ten days from this date, nor until they shall have first entered into a bond before the Clerk of this court, giving such security as he may require, for the sum of $2,000.00, conditioned on their faithful discharge of their said trust and faithful execution of this or any other decree herein entered, and, in the event of such sale, the said commissioners shall forthwith report the same to this court for confirmation.

And it is further adjudged, ordered, and decreed that the defendants pay the cost of this suit.

Entered July 27, 1914

Jas L McLemore

Entered in Chancery
Order Book No. 4.
Page 661.

This Deed, Made this 24th day of May in the year one thousand nine hundred and ten between W. H. Morris and Ida E. Morris, his wife,

of Nansemond County, Virginia, parties of the first part, and J. Walter Hosier, chosen as trustee,

of said County and State, party of the second part—

Witnesseth: That the said parties of the first part do grant unto the said party of the second part, with general warranty, the following property, to-wit:

All those certain two (2) lots or parcels of land near the Eastern suburbs of the town of Suffolk, County and State aforesaid, known, numbered and designated on that plat of building lots known as the Lloyd Place Corporation as lots Nos. 16 and 17 in Block "H". Said lots having a frontage of thirty (30) feet each on the East side of Fifth Street and runs back between parallel lines one hundred and ten (110) feet to the rear.

It being the same lots sold to the said W. H. Morris by deed from the Lloyd Place Corporation bearing date the 6th of Nov., 1909, and duly of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in D. B. No. 68, page 218. (See D.B.64, page 570 for plat.)

2. All that certain lot or parcel of land, situated in Saratoga Place in the County of Nansemond, State of Virginia, near the Southwestern suburbs of the Town of Suffolk, Virginia, known, numbered and designated on the plat of Saratoga Place Corporation duly of record in the Clerk's Office of Nansemond County, and State of Virginia, in D. B. No. 66, at page 33, as lot No. 32 in block No. 18, said parcel of land herein conveyed being further bounded and described as follows; to-wit: Fronting thirty (30) feet on Morgan Avenue in said Saratoga Place and running back between parallel lines one hundred and ten (110) feet and being bounded on the North by lot No. 15 in said block No. 18; on the East by lot No. 33, in said block No. 18; on the South by said Morgan Avenue; and on the West by lot No. 31 in said block No. 18. And being same lot conveyed to W. H. Morris by W. C. Wyatt and wife by deed dated the 18th day of February, 1910, and to be recorded along with this deed.

In Trust, to secure to R. P. Philhower, of Nansemond County, Virginia

the payment of the sum of

Three Hundred Dollars ($300), evidenced by negotiable note of even date with this deed for that sum, made by W. H. Morris and payable to said R. P. Philhower ninety days after date at the Farmers Bank of Nansemond, in Suffolk, Virginia; and also to secure any note or notes given in renewal, curtail or continuation of said note.

In the event that default shall be made in the payment of the said debt, principal or any instalment of interest, when due and payable, then the Trustee, on being required so to do by the beneficiary hereunder, his executors, administrators or assigns, shall sell the property hereby conveyed.

And it is covenanted and agreed between the parties aforesaid, that in case of a sale the same shall be made after first advertising the time, place and terms thereof for twenty days, as said trustee may deem best,

and upon the following terms, to wit: for cash as to so much of the proceeds as may be necessary to defray the expenses of executing this trust, including a trustee's commission of 5 per centum, the fees for drawing and recording this deed, if then unpaid, and to discharge the amount of money then payable upon the said debt, and if there be any desidue of said purchase money the same shall be made payable at such time, and secured in such manner, as the said parties of the first part their executors, administrators or assigns shall prescribe and direct, or in case of their failure to give such directions, at such time and in such manner as the said Trustee shall see fit.

The said parties of the first part covenant to pay all taxes, assessments, dues and charges upon the said property hereby conveyed so long as they or their heirs or assigns shall hold the same; and further covenant and agree to keep the buildings on the property hereby conveyed insured for the full amount of $ for the further protection of the said Philhower or assigns; and in the event of failure to do so, then the Trustee, or the beneficiary under this deed, may effect or renew such insurance from time to time, so long as the said debt, or any part thereof remains unpaid: and the insurance premiums shall constitute a part of the lien created by this deed, to be paid out of the proceeds of the property, if sold, or to be recoverable by all the remedies in law or equity by which the debt aforesaid may be recoverable.

If no default shall be made in the payment of the said debt or insurance premium, then, upon the request of the parties of the first part, a good and sufficient deed of release shall be executed to them at their own proper cost and charges.
Witness the following signature s and seals

W. H. Morris (SEAL.)
Ida E. Morris (SEAL.)
(SEAL.)
(SEAL.)

STATE OF VIRGINIA,
County of NANSEMOND } To wit:

I, Lula Holland, a Notary Public for the county aforesaid, in the State of Virginia, do certify that W. H. Morris and Ida E. Morris, his wife, whose names are signed to the writing hereunto annexed, bearing date the 24th day of May, 19 10, have acknowledged the same before me in my county aforesaid.

Given under my hand this 24th day of May, 19 10

Lula Holland

My term of office expires on the 17 day of July, 19 13

MEMO.—To be acknowledged before a Justice, Notary Public, or Commissioner in Chancery.

Redeposited

100

Deed of Trust.

N. H. Morris - wife

To

J. Walter Hoover.

Trustee for R. P. Richardson.

Admitted to Record this 26th day of May 1910.

Recorded D. B. 67 Page 596.

June 4. 1910. Examined and verified.

A. L. Twitty Clerk.

By ....., D. C.

$.....

Tax ..... $ .50

Fee ..... $ 1.60

Paid $ 2.10

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County the 26th day of May 1910

This deed was presented, and, with the certificate ---- annexed, admitted to record.

Teste:

R. R. Smith, Clerk.

By M. McMatarius, D. C.

An account showing the amount and character of the work done and materials furnished by Felix Buckley, contractor or supply man, the prices charged therefor, the payments made, and the amount due by W. H. Morris, debtor.

W. H. Morris,

Debtor to Felix Buckley.

1910			
May 14.	To 8 Window 14x32-4L	@ $1.50,	$12.00
" "	" 4 "	" " " " " "	6.00
" "	" 10 "	" " 30 " " " "	15.00
" "	" 1 "	2-10½x4½	2.50
" "	" 4 Circle Glasses	@ 37½¢	1.50
" "	" 1 pr. side lights	12x6-10	2.00
" "	" 1 Transom	12x8-2	1.00
" "	" 1 Sash Door	2-10x6-10	3.50
" "	" 3 Doors	2-8x6-8 @ $1.75	5.25
" "	" 12 pr. blinds	14x32 @ $1.05	12.60
" "	" 10 " "	14x30 @ 98¢	9.80
" "	" 22 Sets " hinges	" 17½¢	3.75
" "	" 690 lbs Sash Weights		10.35
" "	" 10 " Cord	@ 27½¢	2.75
" "	" 23 Sash Locks	@ 4 3/23¢	.95
" "	" 23 " Lifts	@ 1 22/23¢	.45
" "	" 5 pr. 3x3 Butt hinges	@ 8¢	.40
	forward		$89.80

1910	Brought forward		$ 89.80
May 14,	To 1 pr 3½ x 3½ Butts oc		.25
" "	" 3 locks @ 35¢		1.75
" "	" 1 lock		1.50
" 30,	" 1 Window 14 x 30 - 4 light		1.50
" "	" 1 " " " 28 " "		1.40
" "	" 1 pr blinds " " 28 " "		1.15
" "	" 1 " " " " 32 " "		1.25
" "	" 1 Set P. D. Hangers		3.35
June 4,	" 21 lbs Weights		.32
Aug 11,	" 1 Window 14 x 30 - 4 light		1.50
" "	" 1 pr blinds " " " " "		1.25
" "	" 1 Set " hinges		.13
" "	" 30 lbs Weights @ 1½¢		.45
" "	" 1 Sash lock & lift		.07
" "	" 1 pr door 3 x 8 - 1¾		8.00
" "	" 1 Set Hangers & Hach		3.35
" "	" 1 lock		1.50
" "	" 1 " for Side door		1.75
" "	" 3 door 2-8 x 6-8 @ $1.34		6.70
" "	" 3 " 2-8 x 6-8 @ $1.30		6.50
	Total	31 20	$133.47
" "	By 1 door 2-8 x 6-8		1.35
	Balance due		$132.12

Subscribed & sworn to this 15th day of Sept 1910.

Felix Brinkley

13212
3120
$100,92

Virginia:

County of Nansemond, to wit:

I, William M. Cannon, a Notary Public, in and for the County aforesaid, in the State of Virginia, do certify that Felix Brinkley personally appeared before me in my said County and made oath to the correctness of the foregoing account.

Given under my hand, this 15th day of September 1910.

William M. Cannon.
Notary Public

My commission expires January 18th 1914.

I, Felix Brinkley, ~~a~~ contractor or supply-man, do hereby declare my intention of claiming a mechanic's lien on all that certain building or residence situated and being on those certain lots, pieces, or parcels of land in Nansemond County, Virginia, being known, numbered, and designated on tha plat or plan of Lloyd Place Corporation, duly of record in the Office of the Clerk of Nansemond County, Virginia, and in Deed Book No. 64, page 570, as lots numbers 16 and 17 in block M. as shown on map above referred to, each of said lots fronting thirty (30) feet on the East side of Fifth Street and running back therefrom between parallel lines a distance of one hundred and ten (110) feet as shown on said map ~~and~~ and on so much land therewith of the said lots as shall be necessary for the convenient use and enjoyment thereof to secure the payment of $132.12 with interest from the 11th day of August, 1910 being a debt contracted for work done and materials furnished, as shown by the account to which this statement is annexed, for the construction, repair, and improvement of the said building and appurtenances of which W. H. Morris is the owner or reputed owner and at the instance and request of the said W. H. Morris; which said building as aforesaid was completed or the work thereon otherwise terminated within the sixty (60) days next preceding the filing of this claim. And the said Felix Brinkley claims to have a lien on the said building and land as aforesaid from the commencement of the said building for the aforesaid sum and interest according to the Statute in such cases made and provided. The said claimant herewith files an account showing the amount and character of work done, the materials furnished, prices charged therefor, the payments made, and the balance due, verified by oath.

Witness my hand this 15th day of September 1910

Felix Brinkley (Seal)

State of Virginia,

County of Nansemond, To-wit:

I, William M. Crumpler, a Notary Public for the County aforesaid, in the State of Virginia, whose term of office expires on the 18th day of January, 1914, do certify that Felix Brinkley whose name is signed to the foregoing writing dated the 15th day of September 1910, has acknowledged the same before me in my County aforesaid.

Given under my hand this 15th day of September 1910.

William M. Crumpler
Notary Public.

Virginia:

In the Clerk's Office of the Circuit Court of Nansemond County, the 15th day of September 1910

This Mechanics Lien was presented, and, with the certificate annexed, admitted to record.

Teste: R. R. Smith *Clerk,*

By M. M. Watkins *D. C.*

Ex. "A" 164(a)

Felix Brinkley
vs. } Mechanics
Lien
W. H. Morris.

Admitted to record
September 15. 1910.

Recorded in
Mechanic's Lien
Record No. 2 Pg. 1.

Filed & recorded
A. L. Twitty, D.C.

Jas. .50
Jno 1.50
2.00

W. H. Burnett

This Deed, Made this 23rd day of March 1910

between W.H.Morris and Ida E. Morris,his wife

of the _____, county of Nansemond and State of Virginia, of the first part, and J.Walter Hosier, chosen as Trustee, of the second part—

Witnesseth: That the said parties of the first part do grant unto said Trustee the following property, to wit:-

All those certain two (2) lots or parcels of land near the Eastern suburbs of the town of Suffolk,county and state aforesaid, known,numbered and designated on that plat of building lots known as the Lloyd Place Corporation as Lots Nos 16 and 17 in Block M.Said lots having a frontage of Thirty (30) feet each on the East side of Fifth Street and runs back between parallel lines One Hundred and Ten (110) feet to the rear.

It being the same lots sold to the said W.H.Morris by deed from the Lloyd Place Corporation bearing date the 6th of Nov 1909 and duly of record in the Clerk's Office of the Circuit Court of Nansemond County Virginia in D.B.No.68,Page 218.(See D.B.64,Page 570 for plat)

It being the same property conveyed to _____

by deed from _____

bearing date the _____ and duly recorded in the Clerk's Office of Nansemond county, in Deed Book No. _____, Page _____

In Trust, to secure to Richard P.Philhower

the payment of Eleven Hundred ($II00) ---------- Dollars,

evidenced by a bond for said amount made by W.H.Morris

and bearing even date with this deed, payable on demand.

Given to secure the payment of lumber,labor and other material to construct buildings on the land hereinbefore desctibed.

And also to secure the payment of any bond or bonds, note or notes, given in renewal of this bond or any part thereof.

In trust to secure to R.P.Philhower the payment of $II00,evidenced by five bonds as follows:of even date with this deed.

One bond of $200.00,payable one year after date,one bond of $200.00 payable two years after date,one bond of $200.00 payable three years after date,one bond of $200.00 payable four years after date and one bond of $300.00 payable five years after date.

Each bond made by W.H.Morris with waiver of homestead exemption. Given to secure payment of lumber and material in constructing buildings on property herein described.

And give to secure the payment of any bond or bonds given in renewal of either of these bonds or the whole or any part of one or the whole. Interest at 6% payable on whole amount yearly

Should default be made in whole or in part, principal or interest, when due, or any other covenant contained in this deed, the said Trustee shall, when required to do so by the said Philhower or assigns, sell the above granted property by public auction, at such time and place as he, the said Trustee, may deem proper, having first given notice of such time and place of sale for at least ten days; and out of the proceeds of said sale, after paying all expenses attending the execution of this trust, including the regular Trustee's commission of five per cent. out of the proceeds of sale to the said Trustee, he, the said Trustee, shall then pay to Richard P.Philhower, or assigns, the debt aforesaid, with interest thereon, or so much as may remain unpaid, and the balance, if any, to the said W.H.Morris or assigns.

The said W,H,Morris and wife, parties of the first part, covenant that they will warrant the title to said property, and will pay all taxes on said property so long as they or their assigns shall hold the same.

And the said parties of the first part further agree and covenant to keep the buildings on said property insured for $I000 in such companies as may be approved by said Trustee and assign the policy to the said Trustee for the further protection of the said Philhower or assigns; and in event of their failure to keep insured said buildings, then the Trustee or beneficiary may insure the same, and the insurance premium shall constitute a part of the lien created by this deed of trust, and to be paid out of the proceeds of sale, if sold, including the fee for drawing and recording this deed, if then unpaid.

If no default be made in the payment of said debt or any part thereof, then, upon request of the parties of the first part, a good and sufficient deed of release shall be executed to W.H.Morris at his own proper cost and charges.

Witness the following signature s and seal s:

W. H. Morris (Seal)

Ida E. Morris (Seal)

(Seal)

(Seal)

STATE OF VIRGINIA,
COUNTY OF NANSEMOND, } To wit:

I, G.S.P.HOLLAND,Jr, a Notary Public for the county aforesaid, in the State of Virginia, do certify that W.H.Morris and Ida E. Morris,his wife

whose names are signed to the writing hereunto annexed, bearing date the 23rd day of March I9I0, have duly acknowledged the same before me in my county aforesaid.

Given under my hand this 23rd day of March I9I0

All erasurs made before acknowledgement.

G. S. P. Holland Jr.
NOTARY PUBLIC.

My commission expires July 17, 1913.

Indexed 73

E & T -

DEED OF TRUST.

W. H. Morris et ux (wife)

To

J. Walter Hosier

Trustee for R. P. Philhower

Admitted to Record this 5th day of April, 1910.

Record D. B. 67, Page 529

1910. April 22

Examined, verified and

A. L. Smith, D.C.

~~Clerk,~~

~~By~~ ~~, D. C.~~

Tax, - - - -	$ 1.10
Fee, - - - -	$ 1.25
Paid	$ 2.35

J. WALTER HOSIER,
Real Estate, Insurance, Commissioner of Affidavits for North Carolina, and Notary Public

Mail to
R. P. Philhower
216 Saratoga St. City

Virginia:

~~COUNTY OF NANSEMOND, TO WIT:~~ Curcuit

In the office of the Clerk of the ~~County~~ Court for the County of Nansemond, the 5th day of April, 1910. ----------, this deed was presented, and, with the certificate---annexed, admitted to record.

Teste: R. R. Smith, Clerk,

By M. M. Manning ----------, D. C.

Ex 13

THIS AGREEMENT,made and entered into this I5th of Nov,I909 between W.H.Morris of the first part and R.P.Philhower of the secoond part.

Witnesseth;That whereas the said Morris is about to build and construct a house on what is known as "Lloyd Place",near Suffolk Va,and is desirous that the said Philhower make him a loan on said property to amount of $II00 dollars,or not to exceed that amount.

That the said Morris hereby agrees to give to the said Philhower a deed of trust on the two lots now belonging to him on said Lloyd place and the building to be constructed on same,and will,at all times carry a fire insurance policy on said building to protect the said Philhower.

And the said Philhower hereby agrees to advance to the said Morris what is necessary on said building so soon as it is ready to insure and a deed of trust is given.

Witness our hands xxxxxxxxx this I5th of Nov,I909

W. H. Morris

R. P. Philhower

Real Estate
Rents
Investments
Loans

Commissioner of Affidavits for
North Carolina
Notary Public

J. Walter Hosier

GENERAL INSURANCE

SUFFOLK, VA.,

Suffolk, Va. June 30 1910

Mr. R. P. Philhower

BOUGHT OF **FELIX BRINKLEY**

—DEALER IN—

Sash, Doors, Blinds, Hardware and Building Materials

Fine Cutlery, Pumps, Paints, Oils, Glass, Etc., Etc.

No. 827 Washington Street, Smith's Block

To Amt on W. H. Morris bill $60.00

Ex "A"

Dear Sir

If convenient I can use this today or tomorrow and would be very glad to figure on the woods for your new house

Respectfully Felix Brinkley

DEPOSITIONS.

Felix Brinkley,

Vs.

W. H. Morris and others.

Felix Brinkley being duly sworn deposes and says as follows:

Q. What is your name, age, residence, and occupation?

A. Felix Brinkley, age 52, residence Suffolk, Va., and occupation merchant.

Q. Are you the plaintiff in a certain Chancery proceeding now pending in the Circuit Court of Nansemond County against W. H. Morris, Ida Morris, J. Walter Hosier, trustee, and R. P. Philhower?

A. Yes sir.

Q. The nature of this cause seems to be for the purpose of enforcing a mechanic's lien, which you have claimed against the property of W. H. Morris and, incidentally, to have a decree in the cause having the force and effect of a personal judgment. Please examine the lien which you have filed, or rather the account attached to the same and tell me if the items, charges, and totals are correct?

A. Yes sir, that is correct. I do not think that there is any doubt but what it is perfectly correct.

Q. Has this account been paid?

A. No sir.

Q. Were the items charged in this account furnished for the construction of the residence of W. H. Morris located upon the lots of land described in your bill of complaint?

A. Yes.

Q. Was your mechanic's lien filed within sixty days after the completion of the building?

A. Yes sir.

Cross-examined.

Q. Mr. Brinkley, at the time that you furnished the material to Morris for the construction of this house, did you know that there was a deed of trust on that to Mr. Philhower?

(Counsel for the plaintiff warns counsel for the defendant that his question is eliciting new matter, which was not brought out on direct examination and that by the rules of evidence, he will be estopped to contradict or impeach any answer which the witness gives.)

(Counsel for the defendant with-draws the question and reserves the right to cross-examine Mr. Brinkley

later.)

Mr. R. P. Philhower being duly sworn deposes and says as follows:

Q. State your name, age, residence, and occupation? And do you know the parties to this suit?

A. Name R. P. Philhower, age 55 years, residence Suffolk, Va., and occupation lumber manufacturer and I know the parties to this suit. I am one of the defendants.

Q. Mr. Philhower, will you state very briefly the dealings which you had with Morris and subsequently the dealings which you had with Mr. Brinkley?

A. I made a contract with Morris to furnish him with material and money together to the amount of $1100.00. After I furnished the $1100.00, the whole amount was used up, the house was still not finished and that was some time in the early part of May or latter part of April. This contract was made in November or December, 1909. The house was nearly completed in the following April. Of course I had a deed of trat recorded on the 23rd day of March. I went on and worked on the house some time before they fixed up the deed of trust. We commenced the first of December

and the deed of trust did not go to record until the 23rd day of March. I paid for every thing that I bought and furnished from the mill. I paid for every thing that was on the ground at that time. I notified the carpenters and Morris that the money was used up and I couldn't go any further. The house stood thirty days or probably two or three weeks and he came to me and wanted me to furnish some more money. I did not have money of my own so I endorsed a note with him at the Farmers Bank and took the second deed of trust but that has been paid off. That is out of it now. His son paid it off. So far as the second deed of trust, that is of no importance to me now. I had some more dealings with Mr. Brinkley and he brought me this bill marked "Exhibit A" and another bill the same day. We lived side by side and Mr. Brinkley brought it at dinner time. I paid Mr. Brinkley the seventy odd dollars for the Jeffrey Jordan bill and refused to pay this one and advised Mr. Brinkley that he had better go slow, as all of the money had been used up. I notified him that I had a deed of trust on the house for $1100.00 and that it had been spent and that the house was still not completed.

Q. Mr. Philhower I have here a paper writing purporting

to be a contract dated the 15th of November, 1909, between you and Morris in regards to the building of his house. Will you look at this and tell the court whether that is such a contract?

A. Yes, this is all right.

(Said contract is herewith filed as "Exhibit B".)

(Counsel for complainant objects to the exhibit as evidence because it does not show that Brinkley had any knowledge of it.)

Q. Mr. Philhower, I have here a paper writing dated the 23rd day of March, 1910, and purporting to be a deed of trust of W. H. Morris to you to secure the payment of $1100.00. Will you examine that and tell me whether or not it is such a paper?

(The paper is admitted as "Exhibit C".)

A. Correct.

Q. Mr. Philhower, did you tell Mr. Brinkley any thing about the contract that you had with Morris for the construction of the house and for the deed of trust to secure the same?

A. I am not sure. But I did tell him about the deed of trust and I think that he knew that I was furnishing him material for the house.

Q. Did all of the money secured by this deed of trust go towards the payment of material in construction of the W. H. Morris house?

A. Every cent of it.

Q. Did you tell Mr. Brinkley that the money from this deed of trust had gone in such material?
(Question objected to as leading.)

A. I told Mr. Brinkley that the money was all spent. That all of the $1100.00 was gone and I had no money to pay the bill with. And when Mr. Brinkley brought this bill for $60.00, I told him that I was going to spend the money to finish the house and not pay bills. I had the second deed of trust. I spent this second deed of trust and $300.00 also to finish the house.

Cross-examined.

Q. Mr. Philhower, would it have been possible to have completed Morris' house without the material that Mr. Brinkley furnished, or like material?

A. Some body would have to furnish it. He would have to borrow more money. If he had not put this material there, Iwould have used the money for that and left the house unplastered. Would have inclosed the house and painted the house and left it unplastered

something like that. On inside work.

Q. Then the material furnished by Mr. Brinkley was essential to occupancy of the building, is that true?

A. Why, I suppose so, yes. It would not have been a finished house without it.

Q. You have stated that you told Mr. Brinkley about your deed of trust. Can you specify the date on which you imparted this information?

A. I told him so before he brought that bill to me. Of course, at that time, he asked me to pay $50.00. I told Morris when he asked me to loan him $300.00 and he told me he had made arrangements with Mr. Brinkley to furnish the material and that Mr. Brinkley w was to take the money out of his wages. He was teaching school.

(Counsel for complainant asks that the portion of the witness' answer which was relative to what Morris told witness be expunged.)

I told Mr. Brinkley about it and told him he had better go slow and he replied that he could continue to send the goods that his bill was all right.

Q. Then, when you had this conversation with Mr. Brinkley

to which you refer, he had delivered a portion of the material and was delivering, or afterwards delivered the remainder, is that correct?

A. That is correct.

Q. Do you know the date of the contract which Mr. Brinkley had with Morris for furnishing these goods?

A. I do not.

Q. Can you not approximate certainly to the certainty of the month when you had this conversation with Mr. Brinkley?

A. When he brought that bill the 20th day of June. I did not know any thing much about it until he brought this bill. I was just simply taking Morris' word. I didn't expect to pay any bill and did not think that Mr. Brinkley was looking to me for it until he brought it. That was the 20th day of June. My second deed of trust was dated May 24th and there was no material there up until or some time in May.

Q. Then, after you received your bill from Mr. Brinkley you went to see him and told him of your deed of trust with Morris and that he had better be careful.

A. He brought the two bills, when he went to dinner one day. I gave him a check for my individual bill and had a conversation with him, and in fact, several.

Q. The remainder of the conversations were after this time - were they not?

A. Yes.

Q. At any rate, your first conversation with Mr. Brinkley in which you warned him about your deed of trust and the likelihood of his losing money, unless he was careful, was just after he sent you this bill and the Jeffrey Jordan bill. Is that correct?

A. Yes, it was the same day.

Q. And at that time, I suppose, you told him that you were claiming your deed of trust as a first lien on the property?

A. Yes.

Q. But had not told him this before that time?

A. No, I did not know whether it was necessary. I did not know that he was furnishing any thing at all.

Q. You stated that all of the money secured by your deeds of trust was spent for material?

A. Yes.

Q. Have you receipted bills for the disbursements that you made?

A. I haven't now. I have some of them.

(Counsel for the complainant craves oyer of all receipts held by the witness in connection with this matter.)

Q. Can you designate the day either accurately or approximately when you finished paying out the $1100.00 fund?

A. About the first of May. I cannot give you the exact date, but about the first of May. I furnished three or four weeks between the time I stopped working there and the time I took the second deed of trust.

Q. Did Mr. Felix Brinkley in connection with Morris' building, receive any part of the fund secured by the two deeds of trust which you held and disbursed by you?

A. No. I do not think Mr. Brinkley furnished a thing to me out there. I do not know why, but he just didn't do it.

Q. Did Mr. Brinkley, at any time, make any agreement with you regarding your deed of trust and his mechanic's lien?

A. No indeed.

Q. Then, he has never agreed that your deed of trust should be prior to his mechanic's lien, is that true?

A. He thinks different to what I do about that. No sir, no such agreement. There has been no agreement at all between Mr. Brinkley and myself, and no dispute.

Q. Now, Mr. Philhower, I wish to refresh your memory a little and at the same time to charge you with notice of the fact to a certain extent of what we expect to prove in rebuttal of your testimony, thereby giving you an opportunity to explain. Is it not true that you went into Mr. Felix Brinkley's store and told him that you would pay $60.00 of Morris' bill and that that is the reason why he sent you this statement for $60.00?

A. That agreement was between Morris and Mr. Brinkley, not between Mr. Brinkley and I. Morris agreed to pay the $60.00 if he would wait for the balance and Mr. Brinkley brought me the bill, thinking I had the money.

Q. I wish to refresh your memory and to be a little more specific. Do you deny that the reason of this $60.00 bill having been sent to you was occasioned by your going into Mr. Felix Brinkley's store and telling Mr. Felix Brinkley, and his son, Elmer, that you would pay $60.00 of Morris' account?

A. I did not do any such thing. Never agreed to do it. I dare any man in this town or this State to say that I ever promised to pay a cent and that I have not done it. It is the first time I have ever been brought in court.

Re-direct.

Q. Mr. Philhower about what time did you exhaust the amount of $1100.00?

A. I think it was about the first of May. I cannot give the exact time. I did not think it was necessary to keep all these bills and I did not know it would require such a thing. Morris knew just what was being spent and he kept account of it himself and I didn't think it was necessary and I was living at that time on Saratoga and building up on Wellons Street and moving and did not think that they were of any value. I may have them.

Q. I just asked you about the deed of trust .

A. Of course, all of the first deed of trust was consumed before the second was made.

Q. The amount, as I understand you to say, of the first deed of trust had been expended by May 1st?

A. I think so, yes.

Q. Was this expended for material in the W. H. Morris house?

A. Every cent of it.

Q. At the time you had the conversation with Mr. Felix Brinkley of June 30th, had Mr. Brinkley furnished any material for the Morris house?

A. Well, I don't know whether he had or not. I had not been out there. After I expended the $1100.00, I had n no business out there and Morris took out an insurance policy in May for my benefit and, of course, I had no more business out there. All I know about it, when Mr. Brinkley brought that bill to me, I suppose about the 30th of June. Of course, that is the first time I knew that Mr. Brinkley expected me to pay a cent.

Q. Just answer the question Mr. Philhower. When was the first time that you personally told Mr. Brinkley about the deed of trust on this Morris house?

A. Right at that time when he brought that bill.

Further this deponent saith not

The witness, W. H. Morris, being duly sworn deposes and says as follows:

Q. State your name, age, residence, and occupation, and do you know the parties to this suit?

A. W. H. Morris, age 49 years, residence Suffolk, Va., occupation preaching, and I know the parties to this suit. I am one of the defendants.

Q. Will you state briefly to the court the dealings and agreements which you had with Mr. R. P. Philhower in regards to the construction of your house?

A. As near as I can. On the 15th of November, I think it was 1909, I went to Mr. Philhower and had an agreement to furnish me $1100.00 in construction of the building on the lots that I had paid for on 5th Street in Lloyd Place. I gave him a deed of trust whenever he demanded it. That was November and at once he went to work and furnished the bricks. Pleasant went out there and built the pillars and laid the foundation. And they started to building right then, the 25th of November the foundation was laid and they went on that way until they used up $1100.00 and what little money I had also and the house was not completed at that time and I asked Mr. Philhower to make me another loan and I thought we

could complete it with about $300.00 and we used $300.00 and the house was not completed and he said he didn't care to make another loan, and he had made two loans on it. So that was the agreement. I gave him the deed of trust some time in March, the first deed of trust, $1100.00.

Q. Did you make the deal with Mr. Brinkley for the material referred to in this suit?

A. With Mr. Brinkley? Yes, I made the deal with Mr. Brinkley.

Q. What kind of agreement did you have with Mr. Brinkley for the settlement?

A. I went to Mr. Brinkley, myself and Mr. R. H. Crump. We went to Mr. Allen first to see what Mr. Allen would furnish the material for that was wanted, windows, doors, fixtures, and hard ware. Mr. Allen said he would furnish it for $135.00. Mr. Crump said come and see my man. I said"who is your man"? He said "Mr. Brinkley". We told Mr. Brinkley the material we wanted and the kind we wanted and he agreed to furnish it for $120;00. And Crump said "I told you my man was the cheapest". I told Mr. Brinkley that Mr. Philhower was furnishing me $1100.00

that I had given him a deed of trust for $1100.00 to build the house and that I thought I would be able to pay him out of that without any trouble. He agreed to furnish the material, so we went out, that was all was said about it.

Q. Did you have any further agreement with Mr. Brinkley for the payment of this bill?

A. Yes.

Q. What was that?

A. After that $1100.00 was used and Mr. Brinkley had presented the bill to Mr. Philhower for part of the material, he failed to get his money, I suppose. I sent to him and told him to send the material on according to promise. He failed to send it. Consequently the carpenters stopped work and I went there to see him. He said that Mr. Philhower had informed him that there was not enough money for him to get his, so that was why he had not sent it. Then I promised him that, if he would send the material, that I would pay him out of my teaching when my school closed.

Q. At the time you had the first agreement with Mr. Brinkley, did you know whether or not the full amount

of the money advanced on the deed of trust had been paid out by Mr. Philhower on your house?

A. I do not know that. Then, I went to Mr. Philhower and he said that there was no more money that it was out.

Q. About what was the date of your second conversation with Mr. Brinkley?

A. I think the carpenters stopped about three weeks. During this time, I had this talk with Mr. Brinkley.

Q. How much time elapsed between your conversation with Mr. Philhower in which he told you that there was no further money to furnish this material and your second conversation with Brinkley?

A. I do not know sir. I attended to it as soon as I could. I intended to do it as soon as I could, because I was in a hurry to move.

Q. Was your second conversation with Mr. Brinkley after or before the conversation with Mr. Philhower in which he told you that all of the money was exhausted?

A. It was after. That was what brought it up.

Q. Did Mr. Brinkley furnish any of this material to finish your house until your second conversation with him?

A. Yes, I think he did. I think he sent some weights out there.

Q. Are these weights part of the amount claimed in this mechanic's lien?

A. I do not know sir. He has never presented any bill to me at all. He gave the bill to Mr. Philhower, I suppose. I do not know what the account was or what it was. In fact, he has not furnished all that was to be furnished. It hasn't been furnished yet. I went to Mr. Brinkley after school closed. Of course, I didn't get my money, so I told Mr. Brinkley I am not able to pay you, because I am not paid, but I made a proposition to him like this. "If you especially need your money now, if you will put a note in the bank" and he replied to me that he was not going to borrow money to pay himself. That was what he said to me.

Cross-examined.

Q. You say that Mr. Brinkley figured on the material at $120.00?

A. Yes.

Q. What was he to furnish?

A. All of the fixtures, doors, windows, blinds, hinges, locks and all for the house.

Q. Did he give you a list of what he was to furnish?

A. We gave him a list, Mr. Crump did.

Q. Have you any way of specifying in detail every article which was on that list?

A. Not unless I could see the list that Mr. Crump gave him. He put on file there what he was to furnish. He was to furnish a fancy door and he did not furnish that.

Q. Isn't it a fact that you had delivered to you much more material than was figured on in Mr. Brinkley's estimate?

A. Couldn't see how it could be. He was to furnish all of the material for the house for $120.00.

Q. However, this was according to a given list was it not?

A. I couldn't tell. If I had the list I could tell. But all has not been furnished.

Q. You stated that you went to Allen and got his figures and then went the same day, as I understand you, to Brinkley and got his figures and that, at that very time, that same day, you told Brinkley that you had given Mr. Philhower a deed of trust for $1100.00?

A. Yes, I told him that because I wanted him to know where to expect to get the money.

Q. That you had given him a deed of trust for $1100.00?

A. Yes.

Q. Are you quite sure that you told him you had given him a deed of trust?

A. Yes, I told Mr. Allen so too.

Q. That deed of trust, I presume, had been duly recorded and you told him that also?

A. No sir, I did not tell him that.

Q. You had, however, at that time seen the deed of trust and the Notary had taken your acknowledgment?

A. Yes, we signed the deed of trust before I commenced buying material from any one.

Q. I charge you for the purpose of impeachment, is it

not a fact that you went to Felix Brinkley to have these goods figured on on the 10th day of February, 1910?

A. I do not know, sir, about the date, but it was after the deed of trust was all fixed up.

Q. If it be a fact that you did have Brinkley figure on these goods on the 10th of February, 1910, do you still contend that the deed of trust had been drawn and executed?

A. I had given the deed of trust, entered a contract for the deed of trust, before any body had figured on a thing and Mr. Philhower had agreed to furnish the money before we said any thing to any body about it.

Q. Then, as a matter of fact, according to your statement, Brinkley did not figure on these goods until after the 23rd day of March, 1910, is that true?

A. I didn't say that. I said that I had made arrangements and contracted with Mr. Philhower to furnish $1100.00 before I went to any one to buy material.

Q? You said just now repeatedly in answer to three separate questions that the deed of trust had been signed by you and duly executed before you went to Brinkley.

Do you wish to change that answer?

A. I made arrangements with Mr. Philhower under a contract before I went to any one. Had the assurance of getting the money by giving him a deed of trust on the property to pay for the material before going to any one.

Q. Then, as a matter of fact, you are now of the opinion that the deed of trust had not been executed and the Notary had not taken your acknowledgment when you first saw Brinkley?

A. I told you, Mr. Crumpler, that I do not know any thing about the dates or the time of the month, but I know before I went to Mr. Brinkley or any one the deed of trust was arranged,

Q. I suppose, at that time, you told Mr. Brinkley that Mr. Philhower was going to pay the $1100.00 out for other materials and that he was to get no part of it. Is that correct?

A. No, sir, I did not say that.

Q. What did you tell him?

A. I told him I thought he would get part of it. I borrowed it for that purpose, to get material.

Q. Then, it was understood, so far as you are concerned, and was understood, at that time, by Brinkley that his bill would be paid out of this $1100.00, is that correct?

A. I suppose, yes. I suppose he thought that. I told him, I was going to borrow the money from Mr. Philhower to complete the house. I suppose he thought that.

Q. After that, you stated that you had a second conversation with Mr. Brinkley which took place, as I understood you to say, after Brinkley had presented Philhower with the bill for $60.00, is that true?

A. I suppose so. Mr. Brinkley failed to send the material and I sent for him to send the material and he said Mr. Philhower informed him that there was no money and how was he going to get his pay?

Q. Then, that second conversation took place some time after June 30th, didn't it?

A. I do not know the dates.

Q. At any rate, if the bill presented to Mr. Philhower is dated June 30th, and all parties in interest, including Mr. Philhower, agree that it was either presented to him on that date or shortly afterwards

then, necessarily, it must be true that your conversation occurred after June 30th? Is that true?

A. I do not know whether it was June or when, but I know the action.

Q. How much of Brinkley's material had been delivered at that time?

A. The windows, and doors had not been delivered.

Q. I read you a list of material which Brinkley claims to have delivered (and I am reading from the mechanic's lien) previous to June 30th and after I have read it, please tell me whether or not you deny that these goods were delivered previous to your second conversation?

(List read.)

A. The windows were not there. There are some of those things that Mr. Brinkley took the order for that he sent and some he did not send. The cords and weights were among the first he sent. The windows were the last things sent. The house was plastered with no windows in it.

To Mr. Philhower. Re-cross.

Q. Isn't it a fact, Mr. Philhower, that the plastering and painting were paid by you some time after your conversation with Mr. Brinkley?

A. I never paid any thing. I paid Mr. Allen for the paint. Morris paid for the painting. I paid for the plastering and all the material.

Q. Then, you did pay out after your conversation with Brinkley, the whole fund advanced under your second deed of trust, didn't you?

A. Oh, yes, the $300.00 every cent of it.

Q. Why didn't you pay Felix Brinkley out of this money?

A. I refused to pay any bills. I used the money to finish the house.

Re-direct.

Q. Why did you refuse to pay any of these bills?

A. The house would have been in the same condition. I wanted the house finished. I went to Mr. Folk and he said you are doing just what I should do. The only object was to finish the house and to put it in living shape.

Q. You had no other reason?

A. NO.

Morris (continued)

Q. When did your school close?

A. The 18th day of May, I think.

Q. How long before your school closed was it that you had this second conversation with Mr. Brinkley?

A. I do not know sir how long. Just as soon as I could possibly have it. It was after I got that information. I could not tell the dates.

Q. It is a fact, however, isn't it from what you stated just now that before your school closed and after learning from Mr. Philhower that the $1100.00 was exhausted you went to Mr. Brinkley and promised to pay him out of your salary when your school closed.

A. Yes. I do not know since I think over it whether it was before the school closed or before I got my money. I did not get my money but I went to Mr. Brinkley and told him that I would pay him out of this money.

Q. Then you now wish to correct your previous statements. You stated just now that before your school closed you went to Brinkley and told him that you would pay him out of your salary which you expected to collect

as soon as your school closed. After that you said that you went to him again after your school closed, which of the two statements is correct?

A. As I told you a while ago, I was thinking of paying him from the school account. It may have been after I gave up hope of collecting the school account. I finally came to the conclusion that I would give him a note and keep the note up. That was after I saw no chance of getting my money.

Q. Did you ever show Mr. Brinkley the contract which you had with Mr. Philhower?

A. I do not think I did. Mr. Philhower had the contract.

Q. Do you know what caused Mr. Brinkley to send this $60.00 bill to Mr. Philhower?

A. I suppose it was because he understood me to say that I was getting the money from Mr. Philhower.

Q. Why should he have sent him a bill for merely $60.00 when the account was much larger than that?

A. I suppose that he had sent only a part of the bill.

Q. Then, your idea is that Brinkley simply wanted $60.00 on the job, is that correct?

A. I do not know what his ideas were.

Q. Isn't it a fact that you do know that Mr. Brinkley was informed both by yourself and Mr. Philhower that Philhower would pay $60.00 on this account forthwith and that the remainder should be paid as soon as the house was finished?

A. No sir, I do not know any thing about that.

Re-direct.

Q. Can you give us any idea of the value of the material that had been furnished by Mr. Brinkley at the time of your second conversation with him?

A. I cannot. I will have to take Mr. Brinkley's word for it. He did not send me any bill at all. I know this much. The cord and weights, such as that, was sent because Mr. Crump, the carpenter continued to call for them and tried to hurry them on as much as he could.

Q. Had any material been furnished besides the cords and weights. If so, state what?

A. I couldn't tell exactly what was sent and what was not. I know one thing, the windows and doors was not.

Q. You are sure that none of the windows and doors were sent.

A. He may have had them billed to send, but he never sent them.

Further this deponent saith not.

R. H. CRUMP being duly sworn deposes and says as follows:

Q. What is your name?

A. Robert Henry Crump.

Q. How old are you?

A. 48 years old.

Q. Where do you live?

A. Suffolk.

Q. What is your occupation?

A. House carpenter.

Q. Have you ever done any work for Mr. Philhower?

A. Yes, sir.

Q. When did you do any work for Mr. Philhower?

A. I did his house. How long has it been, Mr. Philhower? Two years---. I built his house on Wellons Street and when I built his house, I thought that I was building it for Morris and the first time I called on him for some money, he said I would have to wait and see

Mr. Philhower, but I then found out that I was building it for Mr. Philhower.

Q. How long did you work on Morris' house for Mr. Philhower?

A. For him? After I found out I was working for him?--- About the 11th of December, 1908, I started, I did not know any thing like this was coming up, did I could have dated it. I just went right to work. Some time in December. I finished it, I think, some time in July.

Q. Why did you stop.

A. Why I stopped is because every time I went to Mr. Morris for some money, he told me he had to see Mr. Philhower first, and then in a few days, I did not know Mr. Philhower and he said Morris had borrowed $1100.00 from him and the $1100.00 was just about out and I said "Since he has got to come to you, I must be working for you and since the mo ney is out, I am going to stop".

Q. When was it you stopped?

A. Some where about the last of May or the first of June. The weather was getting pretty good and warm.

Q. Up to the time you stopped, was any material furnished by Mr. Felix Brinkley?

A; No, sir, hadn't any thing been brought out there, unless Mr. Philhower brought the nails out there. If he hadn't got the nails nothing had been gotten.

Q. You are sure of that?

A. Yes, sir.

Q. You are also sure of the fact that it was about June or July when you stopped?

A. May or June, I mean. Along about the last of May or the first of June.

Cross-examined.

Q. Mr. Brinkley in his papers in this case claims to have delivered a quantity of the goods which he has furnished for this house on the 14th

of May. Are you in a position to say that he did not do this?

A. Me?

Q. Yes?

A. I am not certain about that. I am satisfied he had not furnished any when I stopped work.

Q. In other words, if Mr. Brinkley claimes to have furnished some of his material on the 14th of May, all that you can say is that you had stopped before that time?

A. Yes, sir, I had stopped before then.

Q. Then you do not deny at all that Mr. Brinkley is right when he says that he delivered his goods on the 14th of May, 1910, or a portion of it?

A. I do not know any thing about that, but I know he had not delivered any when I stopped. Of course, I don't know just when I stopped. I didn't date it. There had not been any thing from Mrl Brinkley when I stopped.

Q. The fact is, you simply do not know positively

which day you stopped on?

A. No, sir, I didn't date it. I don't know. I didn't know any thing was coming up. I stopped when I felt like I was not going to get my money.

Q. I am going to read you Mr. Brinkley's account. (account is here read.) Please tell me now whether or not the list of items which I have read were actually necessary to complete this house?

A. I couldn't tell without going out there. It has been so long, I couldn't tell, I am satisfied that that size windows and doors is there, but probably I couldn't tell, unless I counted them.

Q. What I am getting at, taking for granted that all of these items had not been furnished to the building at the time Brinkley began to make his deliveries, please tell me whether the building would have been complete without them?

A. No, sir, of course not, it wouldn't have been

finished without that kind of material from some body.

Q. Please tell me whether or not Mr. Philhower knew when Mr. Brinkley sent his material?

A. I couldn't say he knew or not.

Q. How frequently did Mr. Philhower come to the building?

A. He didn't come very often.

Further this deponent saith not.

FELIX BRINKLEY being duly sworn deposes and says as follows:

Q. Mr. Brinkley, will you please state to the court, when you first figured on the material which you furnished Morris' house?

A. Of course, I would suppose we figured on it February 10th.

Q. I want you to know.

A. I know that is the date I put on there and I know I must have figured on it at that time, because I would have put the date on it if I had not figured on it at the time.

Q. Did you, at that time, know or had any body informed you that Mr. Philhower had taken a Deed of Trust on the property and expected to claim his Deed of Trust as a prior lien against the property to any goods which you might furnish?

A. No, sir, all that I know is what the fellow told me, was that he was going to borrow the money from Mr, Philhower to build his house and he came there for me to figure on

the goods and told me he was going to borrow the money from Mr. Philhower to build the house and I didn't ask him any questions. I figured on the goods with the expectation that the money that he borrowed from Mr. Philhower, I expected to get my money out of the money he borrowed from Mr. Philhower. In all cases, if a fellow hasn't got the money, when I send him goods, then I, of course, have to go on their building or expect to have my money if the fellow fails.

Q. Is it at all unusual in your business that parties building houses do borrow money from other people?

A. No, sir, of course not. I suppose most of the houses built are built on borrowed money.

Q. Do you usually have to look to some other source for the payment of your money or is it usually paid out of the proceeds of any deed of trust given borrowing money for the purpose of building?

A. In most cases where people borrow money, in

good many cases, the people that loan the money, pay the bills themselves. In a good many cases, or see that the material is paid for.

Q. Will you please state whether or not the goods that you have furnished to this building were actually necessary to finish it?

A. Yes, sir, they certainly were. Couldn't have been finished without them.

Q. Would the building have been habitable without them?

A. No, sir.

Q. Do you know whether or not, Mr. Philbower either before or after you furnished your bill of goods to this building, knew that you had furnished them, or was going to furnish them?

A. Of course, he knew I was going to furnish them, because some time while I was furnishing the bill, he came in, I think, and told me that Morris had used up all the money, that

there wasn't any thing left to pay me and, of course, I told Mr. Philhower, I asked Mr. Philhower what I must do, where I must look for my money and, of course, I said I will have to look to the building for my money.

Q. What did Mr. Philhower say?

A. I think he said this "Of course, go ahead" or something like that.

Q. Did Mr. Philhower ever pay you or offer to pay you any money whatsoever on this account?

A. No, sir, never paid me any thing at all and just told me that. I do not remember any money being passed at all.

Q. I say did he offer to pay you any?

A. If he offered to pay me any money, I do not remember it.

Q. Did he, at any time, tell you that he would pay any part of the account?

A. Yes, sir.

Q. Please state it.

A. There was $60.00 that was to be paid by Mr. Philhower and of course, that was why Mr. Philhower came in and said there was not any thing left for him to pay me with.

Q. Did you understand or not that this $60.00 would cancel your account or give Mr. Philhower a preference over you?

A. Of course not. My account certainly would not be cancelled, of course.

Q. What was your understanding. The payment of this $60.00

A. Of course, if Mr. Philhower or Morris did not pay me a mechanic's lien I would expect to get also.

Q. It has been testified by Mr. Philhower that you presented him a bill for this $60.00 on the 30th of April, 1910 and the bill has been exhibited in this testimony. Was it your understanding that Mr. Philhower was to pay this $60.00 and then you were to look to Morris for the balance, thereby releasing

any lien which you may have had under the law or did you understand that this $60.00 was to be paid at that time and the balance paid later?

A. I would expect if Mr. Philhower had paid me the $60.00, I would have expected Morris to have paid me the balance in a reasonable time, I would expect to get a lien on the balance just as I did.

Q. Did you ever contemplate, at any time, under any circumstances, releasing the rights which you had under the mechanic's lien law to perfect a lien against this property and thereby enforce your accounts?

A. No, sir, I wouldn't have released my account and trusted to Morris for the money.

Q. Morris has stated on the stand that you did not furnish all the goods that you agreed to furnish. Is this true or false?

A. I furnished what this bill called for. What this bill calls for, I furnished.

Q. He has also testified that you agreed to furnish this bill, or as he has termed it "Every thing" that was necessary for the house for the sum of $120.00.

A. I do not take it that way because I wouldn't know how to do this and I wouldn't because a man wouldn't know what he was doing, if he offered to do a thing of that kind. When I fugure on a bill, I figure on what that bill calls for.

Q. The statement which you are now handing me, please state if this is the original list of the goods upon which you figured for Morris' house.

A. This is the bill. I couldn't tell whether that is the same sheet that I figured on or nor, or whether that was taken from the same sheet that I figured on.

Q. Was this sheet or not made out on the 10th of February or thereabout?

A. Yes, dated February 10th, that is when we figured out the bill.

Cross-examined.

Q. When was the first item of this bill furnished?

A. All I would have to go by would be this bill. This was May 14th, is when we made out this bill.

Q. Here is all I want to get at, is did you furnish all of the items of this account as of the dates of this account?

A. I couldn't say that I furnished, say for instance I send a load of goods out yonder I figure on this list, I check off what I send to-day, and still I have my date there the 10th of February but it might be the 10th of March when I send the load out there and I would check it off.

Q. In other words, it is possible that there might be a month's difference in the date of the bill and when it was actually furnished?

A. Yes. It was figured on February 10th, and this bill was made out May 14th, that shows there that we made out the bill on May 14th, or shows that we furnished the goods on

May 14th, but it might have been that we furnished the goods some of them between February 10th and May 14th, I couldn't say about that.

Q. Before you furnished the first item of this bill were you cognizant of the fact that Morris had entered into an agreement to give Mr. Philhower a deed of trust on this property in consideration of the fact that he would advance the money to build a house?

A. Yes, I was, because he told me he was going to borrow the money from Mr. Philhower to build the house.

Q. In other words, you knew that he had entered into a contract with Mr. Philhower?

A. I do not know any thing about a contract but that he was going to borrow the money from Mr. Philhower to build the house.

Q. Were you, Mr. Brinkley, or were you not familiar with the fact that Morris had entered into a contract to give Mr. Philhower a deed of

trust on his property for money advanced at the time you furnished the first item of the bill of goods referred to?

A. Well, of course, I furnished the bill of goods with the expectation of getting my money out of the money he borrowed from Mr. Philhower, that is the way I furnished the goods, because he told me he was going to borrow the money and I said"Well"to myself "I can furnish the bill of goods myself," I do not think I am taking any great chance when a fellow comes inand says he is going to borrow the money I feel like the house is responsible for the money if the man fails. That is what I went by and possibly I did not feel but that he would have money enough to pay for his material.

Q. In other words, you were familiar that there was a contract?

A. I expect, if a man says I am going to borrow the money from a man, I know he is going to give a deed of trust. I know he may hold a deed of trust or let him have the money,

Q. Is it a usual thing for people to advance a large amount of money as this to build a house without taking a deed of trust?

A. They wouldn't loan the money without the Deed of Trust.

Q. Wouldn't you consider that you were put on notice as to this deed of trust?

A. I would know or think that he was going to have a deed of trust on the property, of course.

Q. Mr. Brinkley, are you prepared to say exactly what part of this bill of goods had been furnished as of April 5th?

A. No, sir, I certainly am not.

Q. You couldn't say?

A. No, sir.

Q. You have no idea?

A. No, sir.

Cross-examined.

Q. Mr. Brinkley, the counsel representing Mr. Philhower refers to your knowledge of a contract between Morris and Philhower when you furnished the first item of this account, I presume a reference to the written contract marked exhibit "A". Will you please state whether you knew of the existence of that written contract when you furnished this goods?

A. No, sir, I did not.

Q. Then, what I understand is, you merely knew that Morris told you he expected to borrow somw money from Mr. Philhower for the purpose of building this house and you, naturally, expected Mr. Philhower to have a deed of trust on the property

A. Yes, sir.

Q. Now, as to the dates upon which you furnished these goods. The most of your account is dated May 14th, 1910. I understood from you that you said on cross-examination that you

couldn't tell whether all these goods were furnished on May 14th or between February 10th and May 14th?

A. No, sir couldn't tell.

Q. Is it or is it not true that the goods as charged on the account were furnished on the dates on which they were charged?

A. Yes, that is right.

Q. In any conversation that you had with Morris or with any one for that matter, did you ever understand that Mr. Philhower expected to loan the money, take a deed of trust, not pay your account out of the, derived from that deed of trust, and then claim a preference over you on the building?

A. No, sir.

Q. Was this ever intimated to you?

A. No, sir.

Cross-examined.

Q. Mr. Brinkley, I understood you to say that,

according to your best recollection that the items of your bill were furnished as of the date of the statement. The majority of that bill was May 14th, so the majority of the bill of goods was furnished as of May 14th?

A. Yes, sir.

Further this deponent saith not.

VIRGINIA

In the Circuit Court of Nansemond County.

Felix Brinkley

vs.

W. H. Morris et als.

This cause having come on this day to be again heard upon the papers formerly read and especially upon the report of L. P. Holland and William M. Crumpler, Commissioners, appointed by previous decree of this court, dated July 27, 1914, disclosing both the lien and the personal judgment effectuated by the said decree having been fully paid by W. H. Morris previous to any sale of the property as provided for in said decree, to which said report are appended vouchers evidencing a complete distribution of the funds received by the said commissioners and to which said report no exceptions have been filed, it is therefore ordered, adjudged, and decreed that the said report be and the same is hereby confirmed; that the decree of July 27, 1914, in so far as it provides for a sale of the property, be now, in view of the indebtedness having been satisfied, revoked and nothing further remaining to be done, in this cause, it is ordered that the same be and it is hereby stricken from the docket.

Approved -
L. P. H.

1915 ~~March~~ Nov. 6th.

Entered

Index Book No. 5 -

Page 26

VIRGINIA:

In the Circuit Court of Nansemond County.

First December rules, 1910.

Felix Brinkley, Plaintiff.

Vs.

W. H. Morris, Ida Morris,
J. W. Hosier, trustee, and
R. P. Philhower, beneficiary Defendants.

To the Honorable James L. McLemore, Judge:

Humbly complaining, your orator, Felix Brinkley, showeth unto your Honor, the following case:

That W. H. Morris was, on and before the 23rd day of March, 1910, and is now, the owner of two certain lots of land which was conveyed to him by Lloyd Place Corporation by deed dated November 6th, 1909, and duly recorded in the Clerk's Office of Nansemond County, on the 9th day of November, 1909, in D. B. No. 68, at page 218, said lots being bounded and described as follows:

" Those certain lots, pieces, or parcels of land in Nansemond County, Virginia, being known, numbered, and designated on the plat or plan of Lloyd Place Corporation, duly of record in the Office of the Clerk of Nansemond County, Virginia, in D. B. No. 64, page 570, as lots numbers sixteen (16) and seventeen (17) in block M. as shown on map above referred to, each of said lots fronting thirty (30) feet on the East side of Fifth Street and running back therefrom between parallel lines a distance of one hundred and ten (110) feet;- "

That the said W. H. Morris was also on and before the 24th day of May, 1910 and is now the owner of a certain other lot of land, situated in Saratoga Place, a colored suburb of building lots adjacent to the City of Suffolk, and located in the County of Nansemond, which was conveyed to him by deed from W. C. Wyatt and

wife duly recorded on the 26th day of May, 1910, in the Clerk's Office of Nansemond County, in D. B. No. 68, at page 673, which said lot is bounded and described as follows:

Lot No. 32 in block No. 18 of said Saratoga Place located on the North side of Morgan Street on which it fronts thirty (30) feet and running back Northwardly between parallel lines one hundred and ten (110) feet and being bounded on the North by lot No. fifteen (15) in said block No. 18; on the South by said Morgan Street; on the East by lot No. thirty-three (33) in said block No. 18; and on the West by lot No. 31 in said block No. 18, all of which will more fully appear by reference to a map of Saratoga Place recorded in the Clerk's Office of Nansemond County, in D. B. No. 66, at page 33;-

That on the foregoing said 23rd day of March, 1910, the said W. H. Morris and Ida Morris, his wife, executed a Deed of Trust, conveying the two lots ofland first above mentioned and described to J. Walter Hosier, trustee, in trust to secure to R. P. Philhower, the sum of Eleven Hundred ($1100.00) Dollars payable, two hundred ($200.00) Dollars yearly after date for the first four years, and three hundred ($300.00) Dollars five years after date, all of which said obligations were evidenced by bonds for those sums of even date with the said Deed of Trust, said Deed of Trust having been recorded in the Clerk's Office of Nansemond County, on the 5th day of April, 1910, in D. B. No. 67, page 529;-

That on the foregoing 24th day of May, 1910, the said W. H. Morris and Ida Morris, his wife, executed a Deed of Trust, conveying each of the three lots above mentioned and described to J. W. Hosier, trustee, in trust to secure to R. P. Philhower, the sum of Three hundred ($300.00) Dollars, evidenced by a negotiable note payable ninety (90) days after date and duly recorded in the Clerk's Office of Nansemond County, in D. B. No. 67, at page 596, on the 26th day of May, 1910.

That pursuant to agreement made a considerable time previous to time of delivery and as your complainant verily believes and so charges even previous to the 23rd day of March, 1910, he agreed with the said W. H. Morris, to furnish him certain building supplies or the hardware for the construction or erection of a dwelling then in contemplation of erection and afterwards erected upon the two lots of land first mentioned and described above, and pursuant to said agreement did, on the 14th day of May, 1910, begin to deliver the said goods and then and thereafter fully completed the delivery of all of said goods which he had agreed to furnish pursuant to the terms of his said contract with the said W. H. Morris, on sundry dates up to and including the 11th day of August, 1910, on which latter date, an accounting between himself and the said W. H. Morris, disclosed an indebtedness of $132.12 which is, as yet, due and unpaid;-

That, at the time of his said agreement and undertaking with the said W. H. Morris, your Complainant was in absolute ignorance of any dealing between the said W. H. Morris and the foregoing R. P. Philhower and that he had no notice whatever of either of the foregoing Deeds of Trust, until he had, practically, completed his said contract with the said W. H. Morris by the delivery to him of the various goods, which were used in the construction of said building and which are covered by the aforesaid account;-

That within sixty (60) days after the completion of the said building aforesaid, or after the work thereon was otherwise terminated, your orator filed his account and his statement, in the Clerk's Office of Nansemond County, claiming a mechanic's lien, upon the said building and the two lots of land first above mentioned and described, in accordance with the Statute in such cases made and provided, which account and statement are herewith filed, marked exhibit "A" and prayed to be read as a part of this bill and your orator charges and says by virtue of said Statute

and by virtue of his account and statement as aforesaid, that he has a lien upon the building and upon the two lots first mentioned and described above, each of which lots are necessary to the proper enjoyment of the said building, the said building spanning the two lots in the center thereof, and not leaving sufficient ground on either side of the building available for the erection of another building;-

Your orator further alleges that he has fully performed his contract with the said W. H. Morris, before the institution of this suit and within sixty (60) days before filing his account and statement as aforesaid, and that this suit is brought within six (6) months after the completion of the said building, or rather within six months after the whole amount covered by the aforesaid lien became payable.

In tender consideration whereof, and for as much as your orator is remediless, in the premises, save by a court of equity, where such matters are alone and properly cognizable, your orator prays that the said W. H. Morris, Ida Morris, J. W. Hosier, trustee, and R. P. Philhower, beneficiary, may be made parties to this bill and required to answer the same, though not under oath, that proper references may be made and taken; that the liens upon the said property may be determined, the foregoing assets, marshalled and that a decree may be entered declaring the lien of the complainant; that his said mechanic's lien may be enforced by a sale of the foregoing property first above mentioned, consisting of the lots 16 and 17 in block M. of Lloyd Place; that the claim of your orator may be paid out of the proceeds of said sale; that, in the event of any possible failure of his said lien against the property mentioned and described, that a decree may be entered against the said W. H. Morris having the force and effect of a personal judgment; and that all such other, further, and general relief may be granted your orator as he may be entitled to in the premises or which to equity shall seem meet.

Notice is hereby given that the Court will be asked to allow plaintiff's counsel a reasonable fee for his services in and about the conduct of this cause.

And your orator will ever pray, etc.

Thos. M. Compton
p.q.

Felix Brunkby

OFFICE OF

WILLIAM M. CRUMPLER,

ATTORNEY AND COUNSELLOR AT LAW,

SUFFOLK, VA.

1910 - Dec 9 - Filed
W. M. Watkins D.C.

Felix Brinkley
vs.
W.H. Morris et al

1910 Nov. 11 - Process issued returnable to first Dec'r rules - Executed

1910 - 1st Dec'r Rules: Bill filed and Decree Nisi vs all defendants -

1910 - 2nd Dec'r Rules: Decree Nisi confirmed and cause set for hearing.

Notes