

1926-007
Nansemond Co (Suffolk) Chancery Causes: Joseph F Gordon et al vs I.A. Luke et al

Brothers, Dalton, Hutton, Saunders, Leathers, Joyner

The Commonwealth of Virginia,

To the Sheriff of the County of Nansemond, Greeting:

WE COMMAND YOU, That you summon I.A.Luke and W.V.Leathers, Trustee

to appear at the Clerk's office of the Circuit Court of the County of Nansemond
at the rules to be held for the said Court on the 3rd Monday in October, 19 25,
to answer a bill in chancery, exhibited against them in our said Court by
Joseph F. Gordon, Vandelis Butler Brothers, J.P. Dalton, Trustee, J.K. Hutton,
Trustee and J.R. Saunders

And have then there this writ. Witness G.E. Bunting, Clerk of our said
Court, at the court-house, the 21st day of September, 19 25, and in the
150th year of the Commonwealth.

G.E. Bunting, Clerk

Sept 22
Original

No. 300.

Joseph F. Gordon et als

vs. }

SUBPOENA IN CHANCERY

I.A. Luke et al

C.B. Godwin, Jr., p. q.

To October Rules,
Third Monday, 1925
Nansemond County Circuit Court.

Executed on the 22nd day of
Sept. 1922 within the county of
Nansemond, by delivering a
true copy of the within process,
in writing, to J. A. Lucker

in person
O. B. Rawler
Sheriff of Nansemond County.

Executed on the 22nd day of
Sept. 1922 within the county of
Nansemond, by delivering a
true copy of the within process,

in writing, to W. V. Leathers

in person
O. B. Rawler
Sheriff of Nansemond County.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Joseph F. Gordon, Vandelia Butler
Brothers, J. P. Dalton, Trustee,
John K. Hutton, Trustee and J. R.
Saunders, Trustee.....Complainants

v. O R D E R

I. A. Luke and W. V. Leathers, Trustee.....Defendants.

This cause came on this day to be heard upon the consent of all parties, by counsel, and upon the bill of the complainants and the answers of the defendants filed in this cause, ^{November 3, 1925} and the general replication of the complainants to said answers; and thereupon, by consent of all parties, by counsel, this cause is set for hearing and docketed, and was argued by counsel.

And it appearing to the satisfaction of the Court from the papers and evidence and answers of the defendants in this cause that the sale of the complainants' land as described in said bill, on the 17th day of September, 1925, was not made at the hour appointed; and that I. A. Luke, Assignee of the Bank of Holland, Inc., and beneficiary in the deed of trust from Joseph F. Gordon to W. V. Leathers, Trustee, acted as auctioneer at said sale, and while acting as said auctioneer, bid in and purchased for himself the land as described in complainants' bill, and conveyed by W. V. Leathers, Trustee, to I. A. Luke by deed dated September 18th, 1925, and duly of record in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 108, page 505; and that the said I. A. Luke, Assignee of the Bank of Holland, Inc., requested W. V. Leathers, Trustee, to advertise for sale the property of Joseph F. Gordon as described in complainants' bill, without making demand for payment upon Joseph F. Gordon.

Upon consideration of all which the Court is of the opinion, and does so adjudge, order and decree that the sale of the lands of Joseph F. Gordon, made on Thursday, September 18th, 1925, by I. A. Luke to himself, and the deed from W. V. Leathers, Trustee, to I. A. Luke, made in pursuance of said sale, and dated the 18th day of September, 1925, and duly recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 108, page 505, is void and fraudulent and ought to be cancelled and rescinded.

It is, therefore, adjudged, ordered and decreed that the said deed bearing date and filed as aforesaid be, and the same is hereby cancelled and rescinded and held for naught, and to have no more force or effect than if the same had never been entered into between said W. V. Leathers, Trustee, and I. A. Luke.

And it is further adjudged, ordered and decreed that the said I. A. Luke do pay unto the said Joseph F. Gordon his costs in and about the prosecution of this suit in this behalf expended.

Joseph F. Gordan, et als.

v. ORDER.

I. A. Luke, et als.

Entered. February 11 1926.

Jas S. Moore

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put in Index

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VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Joseph F. Gordon, Vandelia Butler
Brothers, J. P. Dalton, Trustee,
John K. Hutton, Trustee, and J. R.
Saunders, Trustee.....Complainants

v. ANSWER

I. A. Luke and W. V. Leathers, Trustee.....Defendants.

The joint and separate answer of I. A. Luke and W. V. Leathers, Trustee, to a bill of complaint filed against them in the Circuit Court of Nansemond County by Joseph F. Gordon, Vandelia Butler Brothers, J. P. Dalton, Trustee, John K. Hutton, Trustee, and J. R. Saunders, Trustee, Complainants.

These respondents reserving to themselves the benefit of all just exceptions to said bill of complaint, for answer thereto, or to so much thereof as they are advised that it is material they should answer, answer and say:

That I. A. Luke became the purchaser of the bond made by Joseph F. Gordon to the Bank of Holland, Incorporated.

That I. A. Luke, Assignee of the Bank of Holland, Incorporated, requested W. V. Leathers, Trustee, to advertise for sale the property of Joseph F. Gordon as described in complainants' bill, without making demand for payment upon Joseph F. Gordon; and that the said I. A. Luke, Assignee of the Bank of Holland, Incorporated, and beneficiary in the deed of trust from Joseph F. Gordon to W. V. Leathers, Trustee, acted as auctioneer at said sale, and while acting as said auctioneer, bid in and purchased for himself the land as described in complainants' bill.

That the several averments of the complainants' bill under Paragraphs 1, 2, 3, 4, 5, 6, 7 and 8, are true and that

your respondents do not deny said allegations.

And now, having fully answered the complainants' bill, these respondents pray to be hence dismissed with their reasonable costs by them in this behalf expended.

J. H. Lusk
W. C. Leathers

Filed Nov. 3, 1825-
H. B. Montgomery,
Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Joseph F. Gordon, Vandelia Butler Brothers,
J. P. Dalton, Trustee, John K. Hutton,
Trustee, and J. R. Saunders.....Complainants

v.

I. A. Luke and W. V. Leathers, Trustee.....Defendants

To the Honorable Circuit Court of Nansemond County:-

Your complainants, Joseph F. Gordon, Vandelia Butler Brothers, J. P. Dalton, Trustee, John K. Hutton, Trustee, and J. R. Saunders, respectfully represent that Joseph F. Gordon is the owner of a certain, piece, parcel or tract of land in Holy Neck Magisterial District, of Nansemond County, Virginia, known as a part of the Lee Tract, and bounded by the lands of James Russell, L. R. Howell and Robert Howell, and being on the South side of the Lee Path, and containing fifty (50) acres, more or less, and the same land conveyed to Joseph F. Gordon by Elihu Joyner and recorded in the Clerk's Office of the Circuit Court of Nansemond County in Deed Book 40, page 431.

1. That the said Joseph F. Gordon and Katie C. Gordon, his wife, by deed dated January 21st, 1915, and recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 79, page 14, conveyed the aforesaid property to W. V. Leathers, Trustee, in trust to secure to the Bank of Holland, Incorporated, of Holland, Virginia, the sum of Three Hundred Sixty (\$360.00) Dollars, evidenced by a bond for that amount, payable on demand, and with interest payable annually in advance.

2. That by deed dated the first day of February, 1919, the said Joseph F. Gordon and Katie C. Gordon, his wife, conveyed unto J. P. Dalton, Trustee, the aforesaid property, in trust to secure to W. Q. Peele of Holland, Virginia, the sum of Four Hundred Fifty (\$450.00) Dollars, and evidenced by a negotiable note of even date with said deed of trust, and payable on demand to the said W. Q. Peele, with interest from date until paid. The said W. Q. Peele, beneficiary under said deed of trust, having departed this life, the aforesaid note has been assigned to Vandelia Butler Brothers as the beneficiary of the said W. Q. Peele.

3. That by deed dated the 11th day of March, 1922, and duly recorded in Deed Book 97, page 20, the said Joseph F. Gordon and Katie C. Gordon, his wife, conveyed the aforesaid property to John K. Hutton, Trustee, in trust to secure to J. R. Saunders payment of the sum of One Hundred (\$100.00) Dollars.

4. That the defendant, I. A. Luke, since the execution of the aforesaid liens upon the property of Joseph F. Gordon, has obtained two judgments against the said Joseph F. Gordon.

5. That the bond payable to the Bank of Holland, Incorporated, was held as collateral security for a note made by Joseph F. Gordon, which note became due on August 29th, 1925, and upon which note all interest had been paid in advance.

6. That on August 7th, 1925, the defendant, I. A. Luke, wrote to the complainant, Joseph F. Gordon, stating that he had been owing him a long time, with no interest, and that unless the said Joseph F. Gordon paid the said I. A. Luke by October 8th, 1925, to which time the said I. A. Luke would wait upon the said Joseph F. Gordon for payment, he would purchase the aforesaid bond payable to the Bank of Holland, Incorporated, and have the same advertised and sold in order that he could get his money secured by judgments. A copy of said

letter being filed herewith and made a part of this bill, marked Exhibit "A".

7. That immediately upon the said collateral note, held by the Bank of Holland, Incorporated, becoming due, which said note was collaterally secured by the bond made by Joseph F. Gordon and payable to the Bank of Holland, Incorporated, the said I. A. Luke, on August 29th, 1925, purchased said collateral note and bond, and without any notice or demand upon the said Joseph F. Gordon, advertised the aforesaid property for sale, a copy of the notice of the Trustee being filed herewith, marked Exhibit "B", and made a part of this bill, and copy of the notice of sale being filed herewith, marked Exhibit "C".

8. That the sale was advertised for Thursday, September 17th, 1925, at twelve o'clock, noon, in front of the Bank of Holland, Incorporated, in Holland, Virginia; and that the said Joseph F. Gordon was there at that time to protect his interest and that the said J. P. Dalton, Trustee was there at that time to protect the interests of the subsequent lienors; that the sale did not take place at twelve o'clock, noon, and the aforesaid parties there to protect the interest of the lienors left, believing that said sale would not be made; that after they had left the Bank of Holland, Incorporated, the defendant, I. A. Luke, holder and assignee of the bond, payable to the Bank of Holland, Incorporated, and secured by first deed of trust, came out of the Bank of Holland, Incorporated, and proceeded, as auctioneer, to sell the aforesaid property; and there being no bidders present, he thereupon auctioned the property and became the purchaser thereof himself, for the sum of Three Hundred (\$300.00) Dollars; and that on the day of September, 1925, W. V. Leathers, Trustee, pursuant to said sale, made

to himself by I. A. Luke, executed and delivered to the said I. A. Luke a Trustee's deed for the aforescribed property of Joseph F. Gordon, which said deed is duly of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in Deed Book , page .

9. Your complainants, therefore, pray that the said deed of the day of September, 1925, between W. V. Leathers, Trustee, and I. A. Luke, conveying to the said I. A. Luke the aforesaid property of Joseph F. Gordon, be set aside and declared void as a void sale and fraudulent so far as the complainants' rights and interests are concerned; and that the said I. A. Luke and W. V. Leathers may be made parties defendants to this bill and required to answer the same, but not on oath, the oath being hereby waived, and that your complainants may have all such further, other and general relief in the premises as the nature of their case may require, or to equity may seem meet.

Joseph F. Gordon
Vandelia Butler Brothers
J.P. Dalton Trustee
John K. Hutton Trustee
J.R. Saunders

p. 9.

STATE OF VIRGINIA,
COUNTY OF NANSEMOND, to-wit:

I, Chas. B. Godwin, Jr., a notary public in and for the county aforesaid, do certify that Joseph F. Gordon, Vandelia Butler Brothers, J. P. Dalton, Trustee, John K. Hutton, Trustee and J. R. Saunders, the complainants in the above suit, this day personally came before me in my county aforesaid, and made oath that they believe the several statements made in the foregoing bill to be true.

Given under my hand this day of , 1925.
My Commission expires April 14th, 1926.

Notary Public.

VIRGINIA:
IN THE CIRCUIT COURT OF
NANSEMOND COUNTY.

Joseph F. Gordon,
Vandelia Butler Brothers,
et als

v.

I. A. Luke and W. V.
Leathers, Trustee

BILL OF COMPLAINTS.

Filed Oct. 19, 1925
C. B. Godwin, Jr.
Clk

CHARLES B. GODWIN, Jr.
ATTORNEY AND COUNSELLOR AT LAW
SUFFOLK, VIRGINIA

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Joseph F. Gordon, Vandelia Butler Brothers,
J. P. Dalton, Trustee, J. K. Hutton, Trustee,
and J. R. Saunders.....Complainants

v.

I. A. Luke, W. V. Leathers, Trustee Defendants.

To the Clerk of the Circuit Court of Nansemond County:-

Kindly issue subpoena in chancery against the
above defendants to the Sheriff of Nansemond County, return-
able to Second October Rules, 1925.

Deposit \$10.00

Chas. B. Godwin
For Complainants.
Rule Notes:

Sept. 21, 1925

Process issued, returnable to October Rules, Third Monday, 1925

Memo. & Receipts

9-21-28-Defect #102

W. B. Godwin, Jr. to J.

Geo. H. Gordon et al

D. C. Huber et al

1929

