

1933-160

Nansemond County (Suffolk)

Chancery Causes: Martha E. Hines & C
vs

188

Eugenie & Riddick Baines, Jr

* All old chancery cases dismissed in this year

Pierce, Rabey

CHANCERY SUMMONS.

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Riddick Baines, Jr., and
Eugenia Baines,

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 November, 1911, to answer

a Bill in Chancery, exhibited against them

in the said Court by Martha E. Hines, Lucy A. Baines, J. S. Baines, William
R. Pierce, Robert S. Pierce, Frederick C. Pierce, John R. Pierce, Euclid
J. Pierce, Cattie J. Rabey and Minnie Pierce

And have then and there this summons.

Witness. R. R. SMITH, Clerk of our said Court, at his office, this 18th day of
October, 1911, xxx 1911, in the 13th year of the Commonwealth.

~~A copy~~ Teste:

CLERK

Teste:

CLERK.

R H Rawley p. q.

Cpy for
vs. }

IN CHANCERY.

Eugenia Barnes

1911

November Rules.

First Monday.

NANSEMOND CIRCUIT COURT.

PROCESS BOOK, No. *3*

PAGE *100*

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A copy Teste :

Clerk.

Teste :

Clerk.

R. R. Smith
By M. M. Harris J.C.

Reported this 27th day of Oct 1911 by delivery
a line of the within process to Riddick Barnes for
in person Eugene Barnes not found. A Lunatic
at William Burg.

J. H. Parker Sheriff
By Hardy Adams Deputy.

R. H. Rawles p. q.

Martha E. Barnes vs.

vs.

IN CHANCERY.

Riddick Barnes Jr vs

1911

November Rules.

First Monday.

NANSEMOND CIRCUIT COURT.

PROCESS BOOK, No. 2

PAGE 100

Martha E. Hines, et als.....Complainants

vs In Chancery

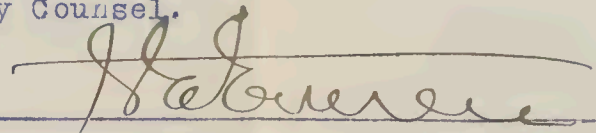
Demurrer

Riddick Baines, Jr., et als.....Defendants

The defendant says that the bill is not sufficient in law
for the following reason:

Parties in privity with the grantor will not be permitted
to allege the fraud of the grantor to avoid his deed.

Riddick Baines, Jr.,
by Counsel.



R. R. Smith Clerk of the Circuit Court
of Nausemond County:

Morcha E. Hines,	Frederick C. Pierce
Lucy A. Baines	John R. Pierce
J. S. Baines	Euclid J. Pierce
William R. Pierce	Cattie J. Robey
Robert S. Pierce	Minnie Pierce

Plffs

C"
VS

Riddick Baines Jr.

Defts-

Eugenia Baines

The last named defendant being non compos mentis
and now confined in an insane asylum.

Doan summons for plaintiffs against defendants
to first November 1911 & answer
a Bill in Chancery.

R. H. Rader Lg.

\$7⁵⁰ fee deposited &
R. H. Rader atty.

\$7⁵⁰ Paid Oct 18/11
M. M. Watkins D.C.

E
C
#389100

Lis Pendens.

In the Circuit Court for the County of Nansemond.

Martha E. Hines, and others,

complainants.

vs.

Riddick Banes, Jr., and another.

defendants.

The title of the above suit is Martha E. Hines, and others complainants, vs. Riddick Banes, Jr., and another defendants. The general object of the said suit is to ask the court to declare null and void and to set aside, a certain deed, made by Riddick Banes, Sr., on the 2d day of April, 1890, to Riddick Banes, Jr., and recorded in D. B. 23 page 520, in the Clerk's Office of the said court, by which said deed the said Riddick Banes, Sr., undertook to convey unto the said Riddick Banes, Jr., a tract of land, below described, and some chattel property, and to have the said land re-conveyed to the proper parties. The court in which the said suit is pending is the Circuit Court of Nansemond County, Virginia; the following is the general description of the land to be effected hereby, to-wit:

A certain tract of land, situate in Cypress District, in the County of Nansemond, and State of Virginia, which was bounded by the lands of Simon Savage, Jethro Green, P. F. Duke, and the estate of Mills Rountree, and containing about seventy-one (71) acres, more or less. The names of the parties, whose estate is intended to be effected hereby is Riddick Banes, Jr., and the estate of the late Riddick Banes, Sr.

and seal
Witness my hand, this 6th day of November, 1911.

Martha E. Hines
----- (SEAL)

State of Virginia, County of Nansemond to-wit:

I, R. H. Rawles, a Notary Public, for the county aforesaid in the State of Virginia, whose term of office expires on the 3d day of February, 1915, do certify that Martha E. Hines, whose name is signed to the foregoing writing, bearing date on the 6th day of November, 1911, has acknowledged the same before me in my county aforesaid.

Given under my hand this 6th day of November, 1911.

R. R. Carles,

N.P.

Virginia:

In the Clerk's Office of the Circuit Court of Nansemond
County, the *6th* day of *November* 191*1*.

This *Liz Penders*
~~Deed~~ was presented, and, with the certificate
annexed, admitted to record.

Teste:

R. R. Smith Clerk,

By *M. M. Waring* D. C.

74(A)
Les Penceno.

Martha E. Hines sol

vs

Riddick Barnes Jr
sol.

Admitted to record

Nov. 6th, 1911 -

Recorded in D. B. 72.

Page 21.

1911 Nov. 14

Examined & verified

M. M. Watkins D.C.

Fee \$ 25
1. —

TO THE HONORABLE JAMES L. McLEMORE,

JUDGE OF THE CIRCUIT COURT OF NANSEMOND COUNTY:

Humbly complaining, sheweth unto the court your complainants, Martha E. Hines, Lucy A. Baines, J. S. Baines, William R. Pierce, Robert S. Pierce, Frederick C. Pierce, John R. Pierce, Euclid J. Pierce, Cattie J. Rabey, and Minnie Pierce, the following case:

Your complainants say that Riddick Baines the Senior of Nansemond County, Virginia, was in his life time seized and possessed of the following real estate to-wit:

A certain tract of land, situated in Cypress District, in the County of Nansemond, and State of Virginia,, which was bounded by the lands of Simon Savage, Jethro Green, P. F. Duke, and the estate of Mills Rountree, containing about seventy-one (71) acres, more or less. They further saythat on the 2d day of April, 1890 the said Riddick Baines or Banes Sr. made a pretended sale and conveyance of said tract of land to his son Riddick Baines, Jr., for the price and sum of \$500.00, that being the consideration annmed in said deed. By said deed he also conveyed 8 hogs, 3 cattle, 4 beds, 2 doz. chairs, 1 bureau, 1 buffet, 1 table, 2 safes, 1 clock, 1 mirror, 1 gun, 2 carts and wheels, and several other items of insignificant chattel property. Your complainants further say that the said Riddick Baines, Sr. died some time during the year 1907, in said county, intestate, leaving as his heirs-at-law, his children, Martha E. Hines, (formerly Baines) Lucy A. Baines, Riddick Baines, Jr., J. S. Baines, and Eugenia Baines, and Katharine Pierce, the said Katharine Pierce being now deceased, and leaving as her heirs-at-law her children, Frederick C. Pierce, John R. Pierce, Euclid J. Pierce, William R. Pierce, Cattie J. Rabey, Robert S. Pierce, and Minnie Pierce.

Your complainants say they are informed and believe and therefore charge that the said deed from the said Riddick Baines, Sr to Riddick Baines, Jr., was false and fraudulent, and was made for the purpose of evading the payment of debts; that the said pretended consideration of \$500.00 was never paid, nor has any part of it been paid; that it was never intended between the two said parties that

ever
it should be paid; that notwithstanding the said pretended sale and conveyance of said land, the said Riddick Baines, Sr., remained in possession of it and of all the chattel property conveyed in said deed from its date on the 2d day of April, 1890 until his death in 1907, and had full, absolute, open, notorious and adverse possession of the same; that the said Riddick Baines Jr., during the life-time of his father, never set up any claim to said land, well knowing that it was not his, nor ever intended to be his by virtue of said deed; that the said land was at all times charged for the purpose of taxation, to the said Riddick Baines, Sr., who during the whole of the said time, until his death paid all the taxes on the same, and that since his death it has been assessed to his estate, and his said estate has paid the said taxes; that the said grantee Riddick Baines, Jr., has never at any time had the land assessed to him or paid any taxes thereon.

Your complainants are informed and believe and therefore further charge that at the time of the said conveyance, the said Riddick Baines, Sr., had become involved financially, as surety for the payment of money, for other people, and that fearing he would have the same to pay, that in order to protect himself and his property, attempted to make this shift of the same, and did by said deed of conveyance transfer or pretend to transfer the same to his said son Riddick Baines, Jr.,; that the said Riddick Baines, Jr., then and at that time well knew the ~~false~~ and fraudulent nature of said transaction, and well knew that his father did not make said deed in good faith, nor did he intend to give in fee simple the said land

And that said deed of bargain and sale was made to his said son. upon the distinct understanding and agreement of the said Riddick Baines Jr. that he would accompany the said deed and return back to his said father by way of the said deed being given away.

Your complainants further say that some time after the said deed was made, the said Riddick Baines, Jr., and his father Riddick Baines, Sr. had a disagreement and falling out, and that the said son left his father's house and home, on said farm and went away, leaving his father in possession, who remained in possession until his death as aforesaid. They further charge that after the said falling out, between the said grantor and grantee, the said Ridd-

dick Baines, Sr., demanded that his said son should reconvey the land to him; that in the meantime all the trouble about the money which he was bound for as surety had passed away; that the said son agreed to comply with the said request, and to reconvey the said land to his father, and in order to do so, he the said Riddick Baines Jr., went to the Clerk's Office of the said county of Nansemond, and took out the original deed of conveyance, which had been lodged there for record, and handed it to his father; that he believed that that was the only and the proper way to reconvey said land back to his said father, simply by giving him back his old deed; that the said father accepted it as such, and both parties then and there looked upon and treated the matter as having been finally settled, by the sons having turned the land back over to his said father. They further charge that the said Riddick Baines, Jr. has repeatedly said in the presence of divers persons that he intended to reconvey the land to the old man, his father, and that he thought he had done so, when he handed him back the old original deed; he not knowing that it was necessary to a proper conveyance, that he should make, sign and deliver a deed conveying the same back to his father:

Your complainants therefore charge that the said deed of conveyance was false and fraudulent, and without any consideration whatever, that it conveyed no estate whatever, to the said Riddick Baines, Jr. but that since the death of both his father and his mother, the said Riddick Baines, Jr., is now in possession of said land, and is claiming the same as his own, by virtue of said deed, which was executed to him by his father, on the 2d day of April, 1890.

They further charge that the said Riddick Baines, Jr. has since his father's death promised and agreed repeatedly that he would do anything in his power to place the said land or the title thereof where it properly belonged; that he well knew it was not his; that his only right in the same was the right of inheritance as one of the children; and that he would be willing and satisfied to have simply his part of the same; but that he has recently refused to give up possession of the farm, or to make a deed conveying the same back to

his father's estate or heirs. As the said deed was falsely and fraudulently made and was entirely without consideration, your complainants believe that the said land should pass by descent to all the children of the said Riddick Baines, Sr., and that the said deed executed by said Riddick Baines, Sr. to Riddick Baines, Jr., on the 2d day of April, 1890 should be declared utterly null and void, and that the same should be set aside and that if necessary the said Riddick Baines, Jr., should be required to reconvey said land to the proper parties.

Your complainants further say that the said Eugenia Baines one of the children of Riddick Baines Sr. is now a lunatic and confined in one of the lunatic asylums of this State.

In tender consideration whereof, and forasmuch as your complainants are remediless in the premises, save by the aid of a court of equity, where such matters are alone and properly cognizable, your complainants pray that a committee shall be appointed for the said Eugenia Baines, who shall represent her interest in this suit, that the said Eugenia Baines and Riddick Baines, Jr. may be made parties hereto, and required to answer this bill, though an answer under oath is hereby waived; that proper process may issue; that all proper accounts and depositions may be taken; and that the said deed of conveyance made by the said Riddick Baines, Sr., to Riddick Baines Jr. dated the 2d day of April, 1890 and recorded in D. B. 23 page 520, in the Clerk's Office of this county, may be declared false and fraudulent and without consideration, and utterly null and void, and that the same may be set aside, and that if necessary the said Riddick Baines, Jr., may be required to reconvey the said land, to the proper parties, who should hold the title to the same, and for all such other, further and general relief as this case may require or which to equity may seem meet, and your complainants will ever pray, e tc.

Notice is hereby given, that the court will be asked to allow a proper counsel fee to complainant's counsel for services rendered as such in this case.

Mr. Thomas E. H. H. H.

Ling A Baines
J. S. Baines
Wm R. Pierce
Robert L. Pierce
John R. Pierce
Emilie J. Pierce
Catherine J. Roby
Nannie Pierce
by R. H. Rawles atty

VIRGINIA, NANSEMOND COUNTY, to-wit:

I, R. H. Rawles, a Notary Public, for the county aforesaid in
the State of Virginia, do certify that Mertha E. Aines
Aines, whose name is signed
to the foregoing bill, has this day personally appeared before me,
in my county aforesaid, and made oath that the facts stated in said
bill as coming of her own knowledge, are true, and that
all other facts therein contained, as coming from knowledge or infor-
mation derived from others she believes to be true.

Given under my hand this 16th day of November, 1911.
My term of office expires on the 3d day of February, 1915.

R. H. Rawles N. P.

Bill.

Filed Nov. 6, 1911.
M. M. Watkins, D.C.

R. H. RAWLES,
ATTORNEY - AT - LAW,
SUFFOLK, VA.

SUFFOLK HERALD--PRINTERS, PUBLISHERS, STATIONERS