1858-016 SOUTHAMPTON COUNTY CHANCERY PAPERS

MURFEE'S EXECUTOR vs. LENOW

5/1858

Plat

59

Murfees Exr

v } Pasfers

Lenox

Murfees Exor:

vs } Stat: Rules

Lenow

Clk.	℔	4.27
		56
		4.83
Shff. . . .		50
L 17		16.50
	℔	21.83

Southampton Circuit Court

James W. Mercer Executor Simon Mercer deceased

against

Jacob Lenon

1858. March 19 Summons &c. issued returnable to April Rules.

" April Rules. Summons returned Executed. Bill filed & D. nisi v. Dfs.

" " " (Last Monday) Bill taken for confessed & Cause set for hearing &c.

" May 7. Def's & Defts Costs.

Memphis Ga

In Re Bill &c

Lenox

1858 March 30

To the honorable Richard H Baker judge of the Circuit Court of the County of Southampton, humbly complaining, sheweth unto your honor

Your Orator James W. Harper, Executor of Simon Harper deceased, that the said Simon Harper departed this life on or about the 9th day of April 1856, having first duly made and published his last will and testament, a copy of which is hereunto filed, marked "A." and prayed to be taken as part of this bill; that the said will was duly admitted to probate by the Circuit Court of Southampton County on the 2d day of May 1856, and your Orator, the Executor named therein, qualified as such on the same day, as will fully appear by the Certificate of probate, appended to the Copy hereunto filed; in that by the said will, the testator disposing of the principal part of his Estate, among his sons and children, directed as follows viz "That the Land and other "property not herein before disposed of "be sold by my Executor, and the proceeds together with all the money on "hand, and due to me be equally divided "between all my children &c"

Your Orator further states and shows unto your honor, that the land not disposed of by the testator in his said will, and which your Orator was authorized by as aforesaid, consists of a tract of about Two hundred and thirty three & half

acres lying on the South side of the road leading to South Quay, and bounded by the lands of Mrs. Ruth Holland, Mad.r Cobb and others, as will be more particularly shown by a plat of the same, herewith filed.

Pursuant to the power and authority thus vested in your Orator, by the said Will, as Executor as aforesaid, your Orator proceeded to sell the said tract of land at public auction, to the highest bidder on the 4th day of December 1856, at which sale, Jacob Lenon became the purchaser thereof at the price of four dollars and fifty two cents an acre, upon a credit of six months from the said day of sale, and agreed to give his bond to your Orator, with two approved Securities, for the purchase money, which however he has wholly failed, and refused to do; It was further agreed that the said tract of land should be surveyed by a competent Surveyor chosen by the parties, to wit your Orator and the said Lenon, or if they failed to select one, then by the County Surveyor of Southampton County, your Orator to pay the Expense of such Survey: It was further agreed that the title to the said land should be retained by your Orator until the purchase money was fully paid by said Lenon, and that a right of way for Carriages should be retained over and across the said lands, from Franklin Depot to said Reservoir, all of which will fully appear from the Memorandum, or obligation of the said Jacob Lenon which is herewith filed Marked "B", and prayed to be taken as part of this Bill.

Your Orator Charges that the said land was Surveyed by Thomas B. Worrell, the County Surveyor, mutually agreed upon between the parties, who ascertained the Number of acres to be 233 and one half, all of which will appear from his plat of the same, herewith filed marked "C", and prayed to be taken as part of this Bill, and your orator, as agreed, has paid the Expense of the said Survey, has done every thing on his part to be done and performed, and is ready and has offered, to make to the said Lenon a proper deed of Conveyance for the land upon the payment of the purchase money, but the said Lenon has failed and refused to give to your Orator his bond with Securities as stipulated, as aforesaid, and now refuses to pay to your orator the purchase money and interest thereon from the expiration of the 6 months after the said Sale, or to complete and carry out his said Contract of Purchase:

Your Orator Shows unto your honor that the amount of said purchase being 233½ acres at $4.52 per acre, is $1055.42, of which amount the said Lenon has paid to your Orator, on part of the same, the sum of $635.00 leaving still due to your Orator as Exr: aforesaid the sum of $420.42 with legal interest thereon from the 4th day of June 1857, which balance with interest he now positively refuses to pay, or in any manner to con-

plete and carry out the said purchase, although your orator has done all and every thing stipulated to be done by him, and is ready and willing and has offered to make and deliver to the said Lenon a proper deed of conveyance if he will pay the balance due by him, which he has refused to do as aforesaid - In tender consideration whereof and forasmuch as your orator is remediless in the premises except by the aid of a Court of Chancery where matters of this sort are alone cognizable and rightly your orator prays that the said Jacob Lenon may be made a party defendant to this bill, and required to answer the same upon oath, as fully and particularly as if them specifically interrogated - That the said Agreement of Sale entered into between your orator and the said Lenon, may be specifically performed and carried into execution by the said Lenon - your Orator again hereby offering to perform the same on his part - And that the said Lenon may be compelled to pay to your Orator the balance of the purchase money of the said land, with interest as aforesaid, your orator offering him to convey by a good and sufficient deed of conveyance the said land to the said Lenon; That all such other relief both general and special may be granted by your Honor in the premises, suited to the nature of the case required, and equity demands: May a subpoena issue &c

Baker

Harpers Ferry

W. B Dunn

Lenoir

1858, May Term

Harper Eqa

M.
Lenox } This cause came on this day to be heard upon the Bill of the Complainant, regularly taken for confessed as to the defendant Jacob Lenox, upon whom process has been duly served, and upon the Exhibits filed, and on argument by Counsel; On consideration whereof the Court doth adjudge order and decree that the plaintiff recover of the defendant Jacob Lenox the sum of $406:86, with legal interest thereon from the 4th day of June 1857 till paid, being the amount claimed by his said bill, after deducting the sum of $13:50 for three acres of the land in said bill mentioned, over which there is a public highway; And that the plaintiff recover of the defendant his costs by him about his suit in this behalf expended - And the Court doth further adjudge order and decree that upon the payment of the said debt interest & costs, the plaintiff execute and deliver to the defendant a proper deed of conveyance, with Special warranty, for the land in the proceedings mentioned, according to the plat filed as Exhibit "C" with the bill, excluding thereout from such conveyance, the three acres covered by the public road, which has been deducted above by consent, from the amount or quantity of the land, for which the defendant has been required to pay -

Marshes Copa.

to Surv. Obs.

Lenox

1858. Appd Rules

Executed Mar
26th 1858 by delivering him a copy

Gen W Vieh Deputy
for Wm W Briggs Shff

The Commonwealth of Virginia,

To the Sheriff of Southampton County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON Jacob Lemon

to appear at the Clerk's Office, of our Circuit — Court of Southampton County, on the first Monday in April — next, to answer a Bill in Chancery exhibited against him in our said Court by James W Morse Exor. of Lemon Morse dec.

and have then and there this Summons.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at his Office, this 19 day of March 1858, in the 82 year of our Commonwealth.

L R Edwards clk

Filed by Dept May 6. 1858

May 6. 1858 Received of Jacob Lenox, three Hundred and thirty Dollars and 41 ¢, in money and a bond of $112.50 on Jas. N. Munson Esq. of Lenox Munson deed, in full of the penalty money of the bond of said refund to in the Chancery suit of Munson Esq. vs. Lenox, and the atty. for stay in said suit, being 230 41/2 amt, for which a deed is for to be made to said Lenox by said Esq. with special guaranty, and upon the payment of the costs in the cause, by said Lenox, the Clerk is authorized to discharge the said bond -

R H Bulkley
atty

Maj Edwards

Maj Edwards

Will please
file a copy of Capt Mun-
sons bill with the papers as
Exhibit "A"

P H Balch Jr

Wm. D. Murphy Esq

Norfolk Mar 26. 58

Dear Sir

Inclose these to you so that you may be sure they are filed in time; Let Maj' Edwards have them by Sunday night

Yrs truly

R H D[illegible]

Mimfies Exor

v } Ex. with bill

Lenow

(A)

56 f.

In the name of God - Amen: I. Simon Murfee do make and publish the following as my last Will and Testament.

First. I give to my beloved wife the Sum of five hundred dollars to her & her heirs forever to be paid to her immediately after my death.

Second. I loan to my wife and my son Edward F. Murfee jointly, to remain together and undivided - during the life of my wife, the following property - all my land lying on the North side of the road leading from Jerusalem to South - 2 negro Slaves. Hansel. Elisha. Patterson. Harriet. Milly. Phoebe and Mary - 2 horses (called Pat & Jenny Lind) carriage & Harness. 2 yoke Oxen. all my Sheep. 6 Choice cows. 30 Choice hogs. 50 barrells of Corn. 2000 lbs of blade fodder. all the oat crop of the present year. Bacon enough to serve her family one year - 2 Carts complete. 4 Choice ploughs. & gearing - Fan Mill. & Corn Sheller and all my household & kitchen furniture of every description

Thirdly. after the death of my wife. I give & bequeath to my Son Edward F. Murfee all the land and other property loaned in the foregoing clause, except the Slaves. and them I dispose of in the following manner. Mary and Harriet I give to my Son Edward. and the other Slaves mentioned in the said Second Clause to be equally divided between my children. James. Mary. Eliza. Ann W and Narcissa -

Fourthly - I give and bequeath to my daughter Mary the lot of land at Franklin and Roberts & Child Narcissa to her and her heirs forever -

Fifthly. I give and bequeath to my son James, the following Slaves. Anthony. Fanny and Mial. also a small tract of land called Cobbs or Vaughans old place containing about 60 acres to him and his heirs forever -

Sixthly - I give to my daughter Eliza a negro man named Henderson to her and her heirs forever.

Seventh. I give to my son Edward a negro man named Stephen and an infirm negro named Silas to him & his heirs forever -

Eight - I give to my daughter Narcissa negroes Nanny and her child Pompy to her & her heirs forever.

Ninth: I give to my daughter Ann negroes Mariah and her child Jacob to her & her heirs forever -

Tenth. I give to my daughter-in-law Josephine Murfee, all the interest which

I owned in the estate of her deceased Father Joseph Barnes and which I bought of Edward F. Murfee & wife to her and her heirs forever.

Eleventh. I give all my books. of every description to be equally divided between my Sons James and Edward.

I direct that the lands and other property not herein before disposed of be sold by my Executor, and the proceeds together with all the monies on hand and due to me, be equally divided between all my children. I appoint James W Murfee my Executor. It has been my anxious desire, in this will to do right, and I invoke my wife & children to be satisfied with what I have done.

If any of the female slaves, mentioned in this will should have any children between this time and my death. I wish such children to pass with their mothers.

In testimony whereof I have hereunto set my hand & Seal this 18th day of March 1855.

S. Murfee (Seal)

Signed Sealed and acknowledged before us, at the request of the Testator and in his presence & in the presence of each other

W. A. Massenburg
Jno. R Chambliss
Rich[d] H Baker Jr.

At a Circuit Court held for the County of Southampton the 2[d] day of May 1856 The last Will and Testament of Simon Murfee dec[d] was this day produced to the Court and proved by the oaths of John R Chambliss and Wm A Massenburg, two of the subscribing witnesses thereto and thereupon ordered to be recorded. And on the motion of James W. Murfee the executor therein named who made oath and together with Allen Edwards Willis W Lawrence an Edward C. Crumpler his Securities (who justified on oath as to their sufficiency) entered into and acknowledged a bond in the penalty of twenty eight thousand dollars conditioned according to law. Certificate is granted him for obtaining a probat of the said Will in due form.

Test

J R. Edwards Cl

M C Jur

Test J R Edwards Cl

Thurs 8th
in 22
Lawn

B

Know all men by these presents
that I, Jacob Lenow did offer at public
Auction on the 4th day of December
1857, the tract and parcels of land left to
be sold by the last will and testament of
Eld. Simon Runyan and at four dol-
lars and fifty two cents P. Acre. Upon
on a credit of Six Months from
the day of Sale, by giving my bond
with two approved securities. The
land to be surveyed by a competent
Surveyor chosen by the mutual con-
sent of the Exctr. and myself, by
the County Surveyor and the Excrs to
pay the expenses of said survey. The
title to the said lands to be withheld and
no deed to be made until the pur-
chase money shall have been fully paid
The right of a way for carriages &c. a-
cross the lands from Franklin Depot
towards Monroe is excepted. For the faith-
ful and just performance of the above
obligation, I have hereunto, bound myself
my heirs and assigns, and set my hand and
seal this day of
A. D. 1857

Jacob Lenow [seal]

R H Baker Jr [illegible]

Rec^d of Lucretia Lewis Six Hundred and Thirty four dollars in part of the within Obligation. June 22^d. 1854

$634, Jas. Rankin Att. for Morgan Exr
of S. Morgan dec^d

Minutes Of
on
Leon

Scale 40 poles to an inch.

N.

Beginning at the East end of the bridge across the Creek on Thos. Cooper's land, a corner for Edward Murfee, in Lacot Denovo line.

Fork of road.

land in the road

233½ Acres.

corner in road in Mr. Hollands line.

maple.
sweet gum.
dead oak.
dead oak.

white oak a corner for dec'd. Cobb's in Alcorn & Holland's line.

maple.

sweet gum.
black gum.
maple.
sweet gum.
black gum.

pine.

sweet gum.

black gum.

pine stump.
pine stump.
pine stump.

cornel.
pine stump.
pine stump.

pine stump.

white oak.

rock gum.

pine.

pine stump.

maple.

sweet gum.

water oak stump a corner for dec'd. Cobb's & Prof. D. Murfee's lines.

pine stump.

sweet gum.

pine stump.
the center of a dead pine.

Beginning at the East end of the bridge across the Creek on Thos. Cooper's land, a corner for Edward Murfee, in Lacot Denovo line.

W.

E.

S.

This plot represent the land sold under the last Will and Testament of Capt. Simon Murfee dec'd. and purchased by Jacob Lenow.

Surveyed August 28th & 29. 1857.

Thos. B. Worrell.