

1892.09

Southampton County Chancery. Johnson, B. J. et al vs Turner, John I. et al

Sues to void sale of
real estate on grounds it
was made illegally

Johnson, Mary J.
Dundelow, Benj. T.

Nicholson, C. N.

Johnson & Co.
Bill
Exhibit
Turner & Schicklen

J. D. McQuinn Jr.

To

The Honorable L. W. Hill Judge of the
Circuit Court for Southampton County.

Your complainants R. J. Johnson and
Mary J. Johnson his wife who was formerly
Dundelow and Benja. T. Dundelow, humbly
complaining sheweth unto your honor that
some time during the year 1880, Jno. Dundelow
departed this life intestate leaving as his only
children and heirs at law Mary J. Johnson and
and Benja. T. Dundelow two of your complainants
mentioned above; that the said Jno. Dundelow
at the time of his death was seized and pos-
sessed of a certain tract of land lying in Ber-
lin and Govt District in Southampton County,
containing 105 $\frac{1}{2}$ acres and bounded by the Round
Hill the lands of Wm Torarch and others,
which tract of land by act of the law descended
upon and became the property of the aforesaid Mary
J. Johnson and Benja. T. Dundelow, they being his
only children and heirs at law.

Your complainants further sayeth that they
are illiterate and poor people never having had the
advantages of an education and were unaware of
the extent and tenor of the proceedings about
which they are now complaining until their land
had been sold and purchased by one Jno. T. Turner;
that the said land was returned delinquent for
the non payment of taxes and livery due thereon

for the years 1876 to 1883 inclusive, and was
by Acts of Assembly 1875-6 sold by the Treasurer
of this County at public auction for the taxes &
due thereon, on the 16th day of August 1886, at which
sale Jno. J. Turner became the purchaser by bidding there-
for the sum of \$6⁶³, an extract of which re-
port and sale is herewith filed as exhibit "A"
and prayed to read as a part of this bill; that before
a deed for the said property was executed to the
purchaser thereof by the Clerk the said Turner
transferred all the interest that he may have
acquired by reason of the purchase to Dr. C. W.
Nicholson, joining in the deed from the Clerk to Dr.
C. W. Nicholson made by his the said Turner's request
all of which will appear by reference to copy of
said deed filed as an exhibit herewith marked "B".

Your orators further state that on July
27th 1888, more than twelve months before the
said deed to Nicholson was executed B. J. John-
son for his wife, Mary J. Johnson paid to Jno.
J. Turner \$4⁸⁴ the amount required to redeem his
wife's one half interest in the aforesaid tract, which
amount the said Turner accepted, and afterwards
to wit: on August 17th 1888 turned the said amount
over to Dr. C. W. Nicholson the transferee of the said
purchase who ^{also} accepted the same. all of which
will appear by copies of their receipts marked
respectively "X" & "Y" and filed herewith as a part of

of this bill; that having accepted the said sum in redemption of one half of the said real estate his right to a deed is to that extent extinguished, & that his title to the property is certainly incomplete and defective.

Your Orators would state further, that the price paid for the property, namely \$5⁶³ is grossly inadequate, that your orators are willing to pay to the said Nicholson all taxes levies and assessments that he has lawfully paid out upon the said land and take their property if he would only relinquish his claim thereto.

Your orators are advised and therefore assert that the proceedings in selling the said real estate are of a penal nature and the statutes under which the sale as aforesaid was made must have been strictly complied with, in order that the purchaser's title may be good. and this your orators assert have not been done; that the statute under which the land was sold requires the Treasurer to report to the County Court within thirty days after the sale have been completed, all the sales made by him as such Treasurer, that the sale herein complained of was made August 16th 1886. and not reported to the County Court until June 20th 1887. a period of eight months after the sale was made. and therefore not in accordance with the law in that case made and provided. all of which

will appear by a copy of the County Court
order of the June term 1887 made with reference
thereto, marked "Z" and filed herewith as ^{an} exhibit.

In tender consideration whereof &
as much as your orators are without
remedy save in a Court of Equity, where mat-
ters of this kind are properly cognizable to
the end therefore that justice may
done, your complainants pray that Geo. S.
Turner and Dr. C. W. Chickleson may be made
parties defendant to this bill and required to
answer the same, that the said sale made
by the Treasurer of the land herein before
mentioned and purchased by Geo. S. Turner be and
be declared of no effect, that the deed made by
the Clerk of this County conveying the above
land to Dr. C. W. Chickleson and all future trans-
actions had with reference to the said prop-
erty be set aside as null void and of no
effect that the said Mary J. Johnson and
Benja. T. Duncanson be confirmed in their title
to the said real estate, and that all such
other general and special relief may be
granted your complainants as the nature of
their case may require or to equity may seem
much.

And your complainants will ever pray &c.
Sas. L. McQuinn Jr.

#4 $\frac{84}{100}$ Recd of B. J. Johnson
four dollars and Eighty
four cts to me in pay for
~~of~~ one half of Taxes on
Farm belonging to Ed. John
O'Donnell & Co. in which
~~my~~ wife Mary Johnson
is a ligatee which was
bought when sold for
Taxes in 1886 by the Sheriff
John J. Turner
July 27th 1888

Aug 17/88
Recd from $\frac{84}{100}$ dollars of
Ben Johnson through
Mr J. J. Turner, a part
redemption of land, the
taxes paid by Mr Turner
by C. W. Nicholson

Johnson et: als:

{ Sum:

Turner et: als:

1891. 2 Oct. Rules

to: et:

McLennan & Co.

Executed Octo
17th 1891 by adding
a copy of this Sum
to each of the within
named papers.
W B Blyss
for J. W. McLennan
clerk

X

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

John I. Turner, L. H. Nicholson
~~and the Sunny Land Company~~

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for
the said Court on the ^{3^d} Monday in *October 1891* ~~next~~, to answer a Bill in Chancery
exhibited against *them* in our said Court by *B. J. Johnson - Mary J. Johnson*
and Benja. T. Dundelow

And this *thing* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *7* day of
Oct, 1891, in the 116th year of the Commonwealth.

Testo: *B. F. McLemore* C. C.

Exhibit "Z"

to be compared
270

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Saultwamptons County Court June Term 1887
J. E. Seabell of Treasurer of this County
this day returned a list of lands, delin-
quent for 1884 and 1876 to 1883 inclusive sold
for non payment of Taxes on the 15th day
of November 1886. 16 Aug 1886 & it is ordered
that the same be filed for exceptions untill
the first day of the next term.

Johnson et. al.: 175
or } Stat. Rules-

Turner + Nicholson

2 Oct.

B. J. Johnson. Mary J. Johnson
and Benj. P. Dendelaw.

Plffs

Against

John I. Turner and C. W. Nicholson. Defts.

1891. Oct. 7. Process Sp? to 2 Oct. Rules.

" 2 " Rules. Process Executed. Recd + Ex filed.
decrece nisi.

" 1 Nov " Bill taken for confessed and
Cause set for hearing.

Whereas, On the 21 day of July, 1884, the following described real estate standing in the name of John O'Donnell's Estate was reported to the Clerk of the County Court of Southampton County by the Treasurer of Said County as delinquent on account of State and County taxes for the year 1884, in the sum of \$ 5⁸⁶; and whereas, on the 16th day of August 1886, after due advertisement as required by law, the Treasurer of Said County did offer for sale at public auction at the front of the courthouse of Said County, the following described real estate for the purpose of paying the State and County taxes due thereon, at which sale John I. Turner became the purchaser, having bid \$ 5⁶³, that being the amount of taxes, interest and costs due thereon; and whereas, in pursuance of the order of the County Court of Said County, entered on the 20th day of October, 1890, the report of the Surveyor of aforesaid County, specifying the metes and bounds of the following described real estate, and the names of the owners of the adjoining tracts or lots, and giving such further description of the land as will identify the same, was recorded in the Clerk's office of the County Court of said County; and whereas, the whole of the purchase money having been fully paid, and the two years required by law having now elapsed, the said John I. Turner ^{right title and interest in said land to be made} desires to have a deed for the same: Said land ^{has been made} to said Nicholson as evidenced by said Turner's signing and
Now, THEREFORE, This deed made this 13 day of November, 1890, between

B. B. McLemore Clerk of the County Court of Southampton County, party of the first part, and B. W. Nicholson, party of the second part, witnesseth: That in consideration of the premises and in pursuance of the act of the Legislature of Virginia, approved 19 day of March, 1884 as amended by act approved the 8th day of February, 1886, the party of the first part doth grant unto the party of the second part, with special warranty, the following described real estate:

A certain tract of land standing on the land B. B. O of Southampton County in the name of John O'Donnell's Estate containing 105 ¹⁶/₁₀₀ acres and bounds reference is made to survey and plat recorded herewith as part of this deed.

Witness the following signature and seal.

B. B. McLemore [Seal.]

Clerk of Southampton County.

STATE OF VIRGINIA, County of Southampton, to-wit:

I, J. E. Bailey, a Justice of the Peace for the County aforesaid, in the State of Virginia, do hereby certify that B. B. McLemore Clerk of the County Court of Southampton County, has acknowledged the same before me in my County aforesaid.

Given under my hand this 17th day of Nov, 1890

J. E. Bailey

Southampton County In the County Office Dec. 5. 1890
The foregoing Deed re from B. F. M. Lemore Clerk and Jno.
I Turner to C. V. Nicholson. was this day ~~day~~ received
and with certificate annexed admitted to record.
B. F. M. Lemore C. C.

Exhibit "B"

Johnson per se
vs. } Dicker
3

Nicholson + Turner

1892. May term

To be entered.

CWJ

May 6, 1892

Entered

Johnson for &c.
vs. } Deane
Turner & Nicholson

This day this cause came on to be heard on the bill & exhibits filed, the bill taken for confessed as to all the defendant was argued by Counsel. On consideration & it appearing from statements of plaintiff Amos that that questions involved in this suit have been settled out of court it is ordered that the same be dismissed from the docket.