

1892-10

Southampton County Chancery. Johnson, Thomas (et al) vs Barrett, Mary R. et al

Sues to get deed
for this church - original
destroyed -

Trustees for Cool Springs
Baptist Church, Colored

Barrett, T. O.
" , Crawford

Bogart, T. H.
" , Mary E.

Bryant, R. B.
" , Nellie
" , Fenton Tr.
" ; Gabie
Prince, J. B.
G. A. L.

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

Complaining sheweth unto the
Court, your orators, Thomas Johnson
Abraham Barnett, Peter Cobb, Charles
W. Jones, George Britt, Anthony My-
rick and Williamson Lainer Trustees of
the Cool Spring Colored Baptist Church,
that sometime previous to the year 1868
Richard Barnett then a resident of South-
ampton County donated to the Trustees of
the aforesaid Cool Spring Colored Baptist
Church one fourth ($\frac{1}{4}$) of an acre of land
for the purpose of erecting thereon a
house of worship; that the said Church
congregation by reason of the gift aforesaid
entered upon the said lot of land and
erected thereon a church in furtherance of
the manifest intention of the said Richard
Barnett now deceased, all of which will
be more evident by reference to a copy of
the deed from Mary R. Barnett and R. B.
Barnett to R. J. & M. Meely as exhibit "C"
herewith filed. That the said Richard
Barnett was cut-down in the prime of
usefulness to fill a premature grave
without having perfected his gift to the said

religious denomination by making them a
deed therefor although they had been placed
in possession by him and had constructed
upon the said land a church, at all events
if a deed was ever made by the said Barnett.
It has been misplaced or destroyed by the
Original Trustees and is not on record.

Your Complainants further state that
they have been in the quiet possession of
the said land since the year 1850, holding
the same honestly, uninterruptedly and
adversely. That said lot of land is situated
north of Franklin and on the Blackwater
river and is the same on which the church or
a portion of it now sits. That your complain-
ants on the faith of their said title (for indeed
they never knew until recently of the defect
therein) have built a costly and convenient
church thereon not without considerable
expense and trouble. and are now anxious
to get a deed therefor. resort to this Court
being necessary by reason of the minority
of some of the parties interested.

In tender consideration whereof and
forasmuch as your complainants are without
redress save in a court of equity where
matters of this kind are peculiarly cog-
nizable, Your complainants pray that

Mary P. Barnett, F. O. Barnett, Crawford
Barnett J. H. Boyark and Mary E. Boyark
his wife, P. B. Bryant, Nellie Bryant
Fenton Bryant Jr and Gabie Bryant be
made parties defendants to this bill. I
that a proper guardian ad litem be appoin-
ted to protect the interest of the infant
defendants P. B. Bryant, Nellie Bryant, Fenton
Bryant Jr and Gabie Bryant, that all of the
said defendants as well as the guardian
ad litem be required to answer the allegations
contained in this bill on oath. That a
Special Commissioner may be appointed
to make to the aforesaid Trustees a deed
with special warranty for the said $\frac{1}{4}$
of an acre of land and that such other
further and general relief may be granted
as the nature of the case may require or
to equity may seem meet.

And your orators well every pray, &c.
Jas. L. M. Lemore Jr

¹²³
Johnson & als. Jr.

Stat. Rules

Barnett & als.

Thomas Johnson. Abram Barrett.
Peter Cobb. Chas. W. Jones. George Britts
Anthony Myrick & Williamson
Lanier - Trustees of the Cool Spring
Colored Baptist Church - } Pless

againish } In Chancery

Mary R. Barrett - J. O. Barrett -
Crawford Barrett - J. H. Bogart &
Mary E. Bogart, his wife -
R. B. Bryant - Nellie Bryant -
Fenton Bryant Jr & Gabio Bryant -
the last four infants, by J. B.
Prince, their Edm ad litem. } Repts

1891. Nov 30. Process up to 2nd April Rules

" 2nd April Rules: Process Executed: Bill & Ex;
filed. J. B. Prince appt. Edm
ad litem. decree nisi.

" 1 May " Bill taken for confessed
as to adults - answer of
Edm ad litem filed
Genl. Rep & Cause set
for hearing.

Barrett's
To & Def B.S.
Weekly.

Exhibit "A"

This Deed made the 15th day of March
in the year 1868, between Mary R. Barrett
(Widow & Executrix of the late Richard
Barrett) and Erastus B Barrett of the
first part, Witnesseth, that in virtue of
the power vested in the said Mary R.
Barrett by the Last Will & Testament
of her deceased Husband Richard B. Barrett
and for the purpose of raising money to pay
the debts of the said Richard Barrett, and
for and in consideration of the sum
of Twelve Hundred Dollars (\$1200.00) paid to
the said Mary R. Barrett by the said
Robert J. & William Neely, the said Mary
R. Barrett and Erastus B Barrett, do
grant, bargain & sell unto said Robert
J. & William Neely, all of the Lands of the
late Richard Barrett lying in & around
Franklin Depot on the North side of the
Seaboard & Roanoke Rail Road, bounded
as follows: on the East by Black Water
River, on the South by S. R. R., and
on the North & West by the lands of Jane
W. Pettaw (on which Allen Brantley
is now living) and Thomas Croft, except
the Hotel & Lot including the garden
Kitchen and other Houses standing on
said Lot also one fourth (1/4) acre more
or less is excepted on which a negro

Church is built which was given
by Richard Barrett to the colored
people. The land hereby conveyed is
estimated to contain (60) sixty acres
more or less and Mary R Barrett
and Erastus B Barrett do warrant
specially the property hereby conveyed.
Witness the following signatures & seals.

Mary R. Barrett (Seal)
Erastus B. Barrett (Seal)

State of Virginia

Southampton County to wit:

I Luther R Edwards a Justice of the
peace in and for the County and State
above mentioned, do certify that Mary
R. Barrett and Erastus B Barrett
whose names are signed to the writing
above bearing date the 10th day of March
1868, Personally appeared before
me in my County aforesaid and
acknowledged the the same to
be their Deed.

Given under my hand this 13th day
of March 1868.

Luther R Edwards
J.P.

Southampton County - In the Clerk's
Office May the 18th 1868.

This Deed of Bargain & Sale from
Mary R. Barrett (Widow & Executrix
of the late Richard Barrett) and Erastus
B. Barrett to Robert J. & William
Neely was this day received ^{and together}
with the certificate thereto annexed &
the acknowledgment of the said Mary
R. Barrett and Erastus B. Barrett
before a Justice of the Peace admitted
to record. Stamps of the Internal
revenue of the United States to the
amount of one Dollar and fifty-
cents being affixed thereto and duly
cancelled.

Teste L. R. Edwards C. C.

Attest

Teste B. F. McLenore C. C.

Johnson & als: Trustees of

the Sum:

Barnett & als:

1891. 2 April Rules

Rev: Let:

McLemore & J.

Executed April 13th
1891 by delivering a
copy of this Sum to
each of the trustees
named herein

A. H. Webb Secy

for J. W. Williams
Chiff

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*Mary R. Barrett. J. C. Barrett.
Crawford Barrett. J. A. Bryant & Mary E. Bryant, his wife.
R. B. Bryant. Nellie Bryant. Fenton Bryant Jr and Gabie Bryant.
the last four infants, by J. B. Pinner their kin as litigants.*

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 *April* 1891 ~~next~~, to answer a Bill in Chancery exhibited against *them* in our said Court by

*Thomas Johnson. Abram Barrett.
Peter Cobb. Chas. W. Jones. George Britt. Anthony Myrick
and Williamson Lanier. Trustees of the Cool Spring
baptist Church*

And this *they* 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 *30th* day of *March*, 1891, in the 11th year of the Commonwealth.

Testo:

B. F. McLemore

C. C.

4/12/91 C.M. Barrett Daughter
Johnson + als: ff.

2" 

Sum:

Barrett + als:

1891. 2" April Ruler
leir: let:

McLennan p.g.

Executed April 13th
1891, by delivering a
copy of this writ for
Crawford Barrett to C.
M. Barrett, a member
of his family, about six-
teen years of age, at
his usual place of abode,
explaining its purport
to her, he not being found

J. B. Traynham
S. C. R.
By R. W. Wright
D. S.

Serg'ts per SDC Pair
J. B. Traynham
S. C. R.

THE COMMONWEALTH OF VIRGINIA.

Serjt of the City of Roanoke
TO THE ~~SHERIFF~~ OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

*Mary R. Banett. J. C. Banett -
Crawford Barreth. J. N. Bogart & Mary E. Bogart, his
wife. R. B. Bryant Nellie Bryant. Fenton Bryant Jr.
and Gabie Bryant. last four infants, by J. R. Pinner
their Guardian ad litem.*

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 *April 1891* next, to answer a Bill in Chancery
exhibited against *them* in our said Court by *Jos. Johnson. Abram Banett.*

*Peter Cobb. Chas W. Jones. George Britts. Anthony
Myrick and William L. Lancer. Trustees
of the Cool Spring, Colored, Baptist Church*

And this *They* 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 *30th* day of
March, 1891, in the 116th year of the Commonwealth.

Teste: B. F. McLemore C. C.

Nov 1892.
Johnson & Co. Trustees

4. 3 Decree

Trarrett & Co.

1892 Nov Term

To be returned

C. W. H.

Entered

1892

Johnson v. l. Trustees
vs.  Decree
Barrett v. l.

This day this cause came on again to be heard upon the papers formerly read and upon the report of Amr. J. L. Moore of the making a Decree to the said Trustees, and was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that the said report be confirmed and nothing further remaining to be done in this cause it is ordered that the same be removed from the docket.

Johnson & Co. Trustees
vs. Deere

Barnett & Co.

1891. May Term
Johs entered
cost

Entered page 1458

Johuson & others Trustees.

vs.

Decree.

Barnett & als.

This day this cause came on to be heard upon the bill taken for confessed as to the adult defendants, the answer of the infant defendants by J. B. Prince their g. dn ad litem, with general replication thereto and was argued by counsel. On consideration whereof the Court doth adjudge order and decree that this cause be referred to one of the Commissioners of this Court who is directed to ascertain the facts concerning the gift of the $\frac{1}{4}$ acre of land to the Church Trustees of the Cool Spring Colored Baptist Church by Rich^d Barnett as claimed in the Bill - reporting whether not in his opinion the same was really given to the said Church Trustees ^{by said Barnett} together with the evidence upon which his opinion is based.

Johnson et al.
n. 3 Secrecy
Parrish et al.

1891. Nov. From
Johannsson
C. M. J.

Entered

Johnson et als.

vs.

3

Deener

Pearrith et als.

This day this cause came on to be further heard upon the papers formerly read and upon the report of Comr. J. C. Parker filed May 31st 1891. To which report there are no exceptions and was argued by Counsel. - On consideration whereof, and without passing upon the said report, the Court doth adjudge order and decree that this cause be referred to the said Commissioner with directions to enquire particularly as to the quantity and boundaries of the land in the bill mentioned which he will report together with any other matters specially stated deemed pertinent by him self or required to be stated by any interested party.

Johnson et al.

vs. } Decker

Barnett et al.

1892. May Term

To be returned.

C. W. L.

May 6, 1892

Entered

Johnson + als. Trustees.
vs. ^{John} Seaver.
Barnett + als.

This day this cause came on again to be heard on the papers formerly read upon the report of Comr. J. C. Parker filed May 30th 1891. to which there are no exceptions & was argued by Counsel. On consideration whereof and the Court being satisfied from the said Report that Richard Barnett in his life time gave the Colored people for a church lot, the land as claimed in the bill, doth adjudge & order & decree that J. L. McLemore who is appointed a special Commissioner for the purpose make to the Coal Spring Colored Baptist Church Trustees & their successors in office, a deed with special warranty for the said land - leaving the exact boundaries of the same to be established by the parties in interest. & report to Court, but before the said Comr. shall execute the deed as aforesaid until the cost of this case has been paid & shall also make it a condition of the deed that the land be used only for religious purposes.

Antony Butler
Friday Daugster
Luke Lawrence

Johnson et als.

vi. Answer of
Gdn ad litem

Pratt et als.

The joint and several answers of R.B. Bryant, Nellie Bryant, Fenton Bryant Jr and Gabie Bryant infants under the age of twenty one years by J.D. Prince their guardian ad litem. to defend them in a certain suit now pending in the Circuit Court of Southampton County, in which Thos. Johnson & others are plaintiffs and Mary R. Barrett and others are defendants.

For answer to the said Bill the said infant defendants through their guardian ad litem come and say, that being of tender years they know not their true interest in relation to the subject matter of the said Bill, nor do they know whether the statements therein contained are true or not, they therefore confide the protection of their interest to the Care of the Courts. And having fully answered they pray hence to be dismissed with their costs.

J.D. Prince
Jdn ad litem

or not. Your commission is of the opinion that the church is all now in the possession of the said trustees, or church, now of the said land, and therefore cannot tell whether the same is your commission or not, and therefore cannot tell whether the same is

The deposition of T.O.Barrett and others,taken in the suit of Johnson et als.Trustees,vs.Barrett,et als.now pending in the Circuit Court of Southampton County,pursuant to a decree in the said suit entered at the May term 1891.thereof.before me,J.O.Parker,a Commissioner in Chancery of the said court,in Franklin,Va. on the 29'th day of May 1891.

The witness,T.O.Barrett,being duly sworn,deposes and says as follows:-

Ques. 1. What is your name,age,occupation,where do you live,and do you ~~know~~ know the parties to this suit ?

Ans. 1. T.O.Barrett;age *36* years;live in Franklin,Va.;I know the parties to this suit,I myself being one of the heirs of Richard Barrett.

Ques. 2. Do you know anything about the gift by Richard Barrett of a piece of land to the Trustees of the Coolspring Colored Baptist Church at Franklin,and if so state what you do know ?

Ans. 2. I have heard my father,the said Richard Barrett,say before his death,that he had given a piece of land up about where the said church now stands,to the said church,to be used for the purpose of erecting a house of worship thereon,or for any other *or if used for any other purpose to be used to his heirs,* religious purpose,and for no other purpose;I do not know positive-ly how much land was included in his gift,nor do I know with any degree of certainty where the lines to the said piece are.

And further this deponent saith not.

J.O. Barrett

The witness J.D.Pretlow,being duly sworn,deposes and says as follows:-

Ques. 1. What is your name,age,residence,occupation,and do you know the parties to this suit ?

Ans.1. J.D.Pretlow;age *59* years;reside in Southampton County about

six miles from Franklin, Va.; am a farmer; know the parties to this suit, or the most of them.

Ques. 2. Do you know anything of the gift of a piece of land to the Cool-spring Colored Baptist Church at Franklin, Va. by the said Richard Barrett mentioned in the said bill, and if so tell what you know?

Ans. 2. I went to see the said Richard Barrett at his request, during his last illness, and he wanted to sell me all his land not before sold north of the S. & R. R. at Franklin, except what had been disposed of; in mentioning the tracts or lots that had been sold he said that he had given the colored people a piece for the purpose of erecting a church thereon; I knew the location of said lot, and I think it was the same place now occupied by the said church or thereabouts; I do not know how much he said that he gave them.

And further this deponent saith not.

J. W. Brettow

The witness, Mary R. Barrett, being duly sworn, deposes and says as follows:-

Ques. 1. What is your name, age, residence, occupation, and do you know the parties to this suit?

Ans. 1. Mary R. Barrett; age 68 years; hotel-keeper; know the parties to the, I myself being one of the defendants to the suit, and am the widow of the said Richard Barrett, deceased.

Ques. 2. Do you know anything of the gift of a piece of land to the Cool-spring Colored Baptist Church at Franklin, Va. by the said Richard Barrett, and if so tell what you know?

Ans. 2. I know that my late husband Mr. Barrett, intended to give said Church a piece of land, I think, as well as I recollect, about one fourth of an acre, to be used by them for religious purposes alone, or if not used for any other purpose, to revert to him or his heirs. I think the piece of land is about where the Church now stands. Though I can't say positively that the Church is on it, or that part of the said land is now used for any other purpose. I never knew where the lines exactly to the

said piece west, though I know the
general location of the land. Joseph
Gregory, who was pastor of the church
at that time, must know where
the boundary lines are.

And further this defendant saith not.

M. R. Barrett

Subscribed and sworn to before me this 29th day of May 1891.

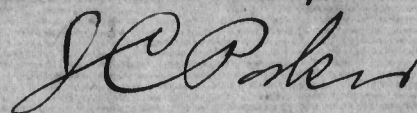
J. C. Parker
Commissioner in Chancery

Commissioners Office,
Franklin, Va. May 29th 1891.

To the Circuit Court of Southampton County, Va.:-

Pursuant to a decree of the Circuit Court of said county, rendered at the May term 1891. thereof, in the chancery suit of Johnson, et als. Trustees, vs. Barrett, et als. the undersigned, one of the commissioners of the said court, reports to the court that on the day of May 1891. he issued notices against the several parties aforesaid, requiring them to attend the taking of the said account ordered in the said decree, concerning the gift of a piece of land to the Coolspring Baptist Church by Richard Barrett, before him at his office in Franklin, Va. on the 29th day of May 1891., which notice was returned to your commissioner duly acknowledged by the parties interested. That your commissioner thereupon took the depositions of T.O. Barrett, J.D. Pretlow, & Mary R. Barrett on the question as to whether such a gift was made or not by the said Richard Barrett, which depositions are herewith filed. Upon them your commissioner is of the opinion that Richard Barrett deceased, certainly gave a piece of land to the said church as set forth in the said bill, but that the same was given to them for the sole purpose of being used for religious purposes, and that if the same ever was used for any other purpose, it should revert back to the heirs of the said Richard Barrett. Your commissioner has been unable, as the depositions show, to ascertain exactly what amount of land was given, but from the allegations of the bill and the testimony of Mary R. Barrett, he is of the opinion that one fourth of an acre was given, though your commissioner has been unable to ascertain the exact boundaries of the said land, and therefore cannot tell whether the same is all now in the possession of the said trustees, or church, now or not. Your commissioner is of the opinion that the church is built on the said land given.

Given under my hand as commissioner as aforesaid, the day and year first aforesaid.



Commissioner in Chancery.

Commissioner's fee-----\$5.

Johnson v.als. Trustees.

v. 3 Report

Barrett v.als.

Johnson & al. Trustee
vs.

Bannett, Cal.

Report of Comm. W. L. Moore.

Pursuant to a decree of the Circuit Court at the May term: 1892 in the above case, your Court begs to report that he has executed to Trustee of the Coal-Spring Caland Baptist Church a deed with specific warranty for the land in the bill & proceedings mentioned. They having first paid the costs of this suit.

Respectfully Submitted
Jas. L. W. Moore
Commissioner

Johnson + al.; } Costs -
 Barrett + al.; }

Lobert	paid B.F.M.	7.30
Thff	paid J.W.W	2.50
Sirzh Roanoke		50
Lau ff		16.50
Cand Parker pd		5.00
Future Costs		1.00

\$ 32.80