

1902-03

Southampton County Chancery. Drake, E.F. vs Cobb, James E. et al

use rent to satisfy debt. if
not sufficient, then sell land
to do same.

Cobb, Catherine M.

Vaughan, C.C., Tr. (Trustee)

" , C.C.

Araks
to $\frac{3}{4}$ Bill in Pruney.
Off. it. als

1902. 2" March Rules Filed
L.A. May 19.4.

J.C. PARKER. E.F. STORY.
FRANKLIN, VA. COURTLAND, VA.
PARKER & STORY,
ATTORNEYS AT LAW,
COURTLAND, VIRGINIA.

TO THE HONERABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT COURT
OF SOUTHAMPTON COUNTY, VIRGINIA:

- - - 0 - - -

Your complainant, E. F. Drake, of the said County of Southampton
humbly complaining sheweth unto your honor:

That at the October term 1901 of the Circuit Court of Southamp-
ton County, Virginia, as assignee of one W. H. Hunt, recovered a ju-
dgment against James E. Cobb TWO HUNDRED AND FIFTY-FOUR 52/100 (254.
52) DOLLARS, with legal interest on \$84.00 thereof from Feby. 1st
1901, on \$84.00 thereof from March 1st 1901, on \$84.00 thereof from
April 1st 1901, and on \$2.52 the remainder thereof from Octo. _____
1901, all till paid and \$7.65 costs, said judgment containing a wai-
ver of the Homestead Exemption as to \$252.00 thereof, an abstract
of same being filed herewith marked "Exhibit A." and prayed to be
read as a part of this bill; That an execution was issued from the
Clerks Office of the said Circuit Court and a return made thereon
"No Effects"; that no part of the said judgment has ever been paid
and your complainant is informed and so states that that no part of
the said judgment can be made out of the personal estate of the said
James E. Cobb; that he, the said James E. Cobb, is seised and possess-
ed in fee-simple (subject to a certain deed of trust hereinafter
mentioned) of the following tract or parcel of land lying situate
and being in Franklin Magisterial District in Southampton County, Vir-
ginia, Adjoining the lands of Joseph H. Gray, T. M. Cobb, W. L. Beale
W. M. Cobb and others, and containing one hundred and forty (140)
acres, more or less. It being the same tract or parcel of land on
which the said James E. Cobb now resides: That on the said tract or
parcel of land, your complainant is informed, the said James E. Cobb
together with his wife, Catherine M. Cobb, has made and executed a
deed of trust to C. C. Vaughan Jr., Trustee, to secure to C. C. Vaugh-
an the payment of the sum of Six Hundred and Fifty (\$650) Dollars
with interest thereon from the 13th day of April 1896, as shown by
said trust deed, or a copy thereof, filed herewith marked "Exhibit
B" and prayed to be read as a part of this bill.

OF SOUTHWESTERN COMMERCE ASSOCIATION:

TO THE HONORABLE ROBERT L. EVANS, JUDGE OF THE CIRCUIT COURT

Your complainant avers and charges that the rents and profits of the said land will not in five years satisfy the said deed of trust and your orators judgment, and hence he is advised that he is entitled to have a sale of the said land in order to satisfy his judgment, subject to the said deed of trust hereinbefore mentioned.

In tender consideration whereof and inasmuch as your complainant is without remedy save in a court of equity, where such matters are alone and properly cognizable, he prays that the said James E. Cobb, Catherine M. Cobb, C. C. Vaughan Jr., Trustee, and C. C. Vaughan be made parties defendant to this bill and be required to answer same, though answer under oath is hereby expressly waived; that all proper process issue; that all proper orders and decrees may be made and inquiries be directed; that if it shall appear that the said rents and profits of the said land will not in five years satisfy the said deed of trust and your complainants judgment, that it may be sold under the direction of the Court and after paying the costs of this suit and the amount due the said C. C. Vaughan by virtue of his said deed of trust, then your complainants judgment may be paid out of the remaining proceeds of such sale; that if the rents and profits will so suffice to pay said liens that the said land may be rented out and the rents and profits be applied to the said liens until they are fully paid and satisfied; and that all such other further special and general relief may be afforded your complainant as the nature of his case may require, or to equity shall seem meet.

And your complainant will ever pray &c.

 p. q.

Drake E. F.

vs. } Stat. of Rules

Gobb et al.

E. F. Drake

Plaintiff

vs.

J. E. Lobb, Catherine M. Lobb,
G. L. Vaughan, and G. L. Vaughan Jr.
Trustees.

Defendant

In Chancery

1902. 5th. day of March. Process issued to 2nd March Rules.

1902. 2nd March Rules. Process returned executed.

Bill & exhibits filed

Deceit nisi

1902. 3rd. March Rules. Bill taken for confessed

and cause set for hearing

Dance

vs. { copy D.T. from
Lobbywife To Vaughan
Lobby et als.

Ex. "B."

This Deed, made this 10th day of April 1896, between
J. E. Cobb and Catherine M. Cobb his wife, of
Southampton County, parties of the first part,
and L. L. Vaughan Jr., chosen as trustee, party of the
second part, Witnesseth, That the said parties of the
first part hereby grant, bargain, sell and convey
unto the said party of the second part, his assigns
or successors forever, in fee simple and with general
warranty, all that certain tract or parcel of land
on which they, the said parties of the first part,
reside, lying, situate and being in Franklin
District, in Southampton County, Virginia,
containing one hundred and forty (140) acres, more
or less, and bounded as follows: on the north by the
Land of S. D. Prettow and the County road leading
from Franklin to Monroe Ferry; on the east by
the land of J. M. Cobb; on the south by the farm
belonging to R. M. Smith; and on the west by
the land of W. M. Cobb, It being the same land
conveyed by J. M. Cobb (now deceased) to the
said J. E. Cobb, To have ^{and} to hold to the said
party of the second part, his assigns or
successors forever, free from the claims of all
persons whatsoever, In Trust However, To
secure the payment of one bond, bearing con-
date with this deed, for the sum of Six
hundred and fifty dollars (\$650.), made by
the said J. E. Cobb, To and in favor of
L. L. Vaughan, his heirs or assigns,

and payable on demand with interest at the rate of six per cent per annum from date, with the provision incorporated in said bond, which said provision is also hereby incorporated in this deed, to the effect that the collection of the said bond shall not be enforced by the said L. E. Vaughan, or his heirs or assigns, so long as the said J. E. Cobb shall pay the holder of said bond the sum of one hundred dollars (\$100.) per annum on the principal of said bond and shall annually pay up all the interest due on said bond. If the said bond be not paid in accordance with the aforesaid terms of payment, then the said Trustee, upon being thereto requested by the then holder of the said bond, shall sell said property herein conveyed, in order to satisfy this trust, at public auction to the highest bidder for cash, after thirty days advertisement of the time, place and terms of sale, and out of the proceeds of said sale he shall pay all expenses of executing this trust and the balance due on said bond and the balance, if any, to the said J. E. Cobb, or his heirs or assigns.

Witness the following signatures and seals
the day and year first above written.

J. E. Cobb

Seal

Cathron M. Cobb

Seal

Virginia, Southampton County, To-wit:

J. G. Parker, a notary public in and for the County of Southampton, in the state of Virginia, hereby certify that J. E. Cobb and Catherine M. Cobb his wife, whose names are signed to the writing above bearing date the 10th day of April 1896, have this day acknowledged said writing before me in my County aforesaid.

Given under my hand this 10th day of April 1896.

J. G. Parker

Notary Public.

Virginia:

In the Clerk's Office of Southampton County Court April 16th 1896.

The foregoing deed was this day presented and with certificate thereto annexed, admitted to record.

Teste: B. F. McLymore C. C.

A copy.

Teste: L. R. Gay D. C.

Drake E. F.

vs. { Spa. In chamber

Lobby J. E. et al.

1902 2nd March Rules

law. let.

Speculators March 15th 1902
by delivering a copy of this
notice to Catherine M. Cobb
a copy to Le. Vaughan J. E. Cobb
not being found at his usual
place of abode I left a copy
of this notice with Catherine M.
Cobb a member of his family
over the age of sixteen years
+ explained its purport to
her. Le. Vaughan J. E. Cobb
found at his usual place
of abode a copy of this notice
was left with his wife Mrs.
Le. Vaughan J. E. Cobb a
member of his family over
the age of sixteen years and
explained its purport to her.

J. M. Williams

Parton & Story P. O.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU THAT YOU SUMMON J. E. Lobb, Katherine M. Lobb, L. L. Vaughan, and L. L. Vaughan Jr. Trustees

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 3rd Monday in March 1902 next, to answer a Bill in Chancery exhibited against Them in our said Court by E. F. Dwyer

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

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 5th day of March 1902, 1899, in the 126th year of the Commonwealth.

Teste: L. A. Gay C. C.

J. B. PRINCE

J. B. PRINCE, JR.

J. B. PRINCE & SON,
Attorneys & Counsellors at Law,
Courtland, Va.

Received October 20th, 1902, of E. Frank Story, Atty., Five and 00/100
Dollars, in full of my fee as commissioner in chancery for taking account,
in suit Drake vs. Cobb et als.

J. B. Prince Jr.
Commr-in-Chy.

Ex. "R"

Drace E. F. assignee

vs. } Extract of Judgment.

Goble J. E.

Parker & S. Long p. q.

Circuit Court,

October Term, ¹⁹⁰¹~~1899~~

No. 9 #7

COMMONWEALTH OF VIRGINIA,

In Southampton Circuit Court, October

1901

Term, 189

E. F. Drisco Assignee of W. H. Hunt

Against

Plaintiff

In Debt

J. E. Lobby

Defendant

Judgment for the Plaintiff.....against the Defendant.....for (\$204.52)

Two Hundred and Fifty Two Dollars and 52 DOLLARS,
as to \$252. 100

Homestead waived, with legal interest thereon from _____ day of _____ 189

on \$84.22 paid thereof from the 1st day of Feby. 1901 on \$84.22 another paid
thereof from the 1st day of Mch. 1901 on \$84.22 another paid thereof from the
1st of Apr. 1901, and on \$252 the residue thereof from Oct. 11th 1901
till paid, and costs \$7.65

A Extract—Teste: L. A. Gay C. C.

Copy. Teste: L. A. Gay 13.4.

Arak
10-3 1st Water
Off it. als.

Ent this April 8, 1902.
Robert R. Huntis.

Entered on page 427.

J.C. PARKER, E.F. STORY,
FRANKLIN, VA. COURTLAND, VA.
PARKER & STORY,
ATTORNEYS AT LAW,
COURTLAND, VIRGINIA.

1 copy

E. F. Drake,

vs

J. E. Cobb, Catherine M. Cobb,

G. O. Vaughan and G. O. Vaughan Jr., Trustee:

This day this cause came on to be heard on the bill of the complainant and the exhibits therewith filed, taken for confessed, the defendants on whom process has been duly served, and they still failing to appear and answer, plead or demur thereto, and was argued by counsel. Upon consideration whereof, the Court doth adjudge, order and decree that it be referred to one of the commissioners of this Court to inquire and report to Court:-

FIRST: The annual and fee-simple value of the real property mentioned in the said bill:

SECOND: What liens there are on the said property with their dignity and priority; *for delinquent taxes or otherwise.*

THIRD: The interest of the several parties in the said land:

FOURTH: Any other matter deemed pertinent by the commissioner or required to be stated by any interested party, which said inquiries the said commissioner will make and report to Court.

\$650.

Franklin, Virginia.

On demand I owe and promise to pay to C. C. Vaughan, his heirs or assigns, the just and full sum of Six Hundred and Fifty Dollars for value received, with interest at 6% per annum from date. And I hereby waive the benefit of my Homestead Exemption as to this debt.

It is understood that the collection of this bond is not to be enforced by the said C. C. Vaughan, his heirs or assigns, so long as I shall pay annually the interest due on said bond and shall in addition pay annually One Hundred Dollars (\$100) on the principal hereof.

Witness my hand and seal this 13th day of April 1896.

(Signed)

J. E. Cobb. (Seal)

Witness.

J. C. Parker

Recd. No. 5th 1900 One hundred and
Twenty-five \$1000 dollars Interest on
within date from April 13th 1896 to Octo
13th 1900 paid by P. H. Culp.

(Signed) C. C. Varyhan

It is understood that in making
the above payment P. H. Culp reserves a
lien for taxes under the deed of
trust securing this land he being
subrogated to my lease and subse-
quent to my ~~lease~~ only to
the balance due on the land to

me. (Signed) C. C. Varyhan

Snake

vs. { copy 1st Decem

copy et als.

Entered page

427

Virginia: In the Circuit Court of Southampton
County, April Term 1902.

E. F. Drake

vs.

^{Bathrine M. Cobb}
J. E. Cobb, L. L. Vaughan and L. L. Vaughan Jr.

Trustees:

This day this cause came on to be heard
on the bill of the complainant and the exhibits
therewith filed, taken & confessed. The
defendants on whom process has been duly
served, and they still failing to appear and
answer, plead or demur thereto, and was
argued by Counsel. Upon consideration
whereof, the Court doth adjudge, order
and decree that it be referred to one of the
Commissioners of this Court to inquire and
report to Court:-

First: The annual and fee-simple value
of the real property mentioned in the said bill.

Second: What liens there are on the said prop-
erty with their dignity and priority; for delin-
quent taxes or otherwise.

Third: The interest of the several parties in
the said lands.

Fourth: Any other matter deemed pertinent
by the Commissioner or required to be stated
by any interested party, which said inquiries
the said Commissioner will make and report to Court.

A copy, Teste: L. A. Hay L. L.

Drako

vs. { Stat: of cons

ly obly et als.

E. F. Drake

vs. (Stat. of Cons.)

James E. Bobby et al.

Sum. 25.40	Dep 52. receipt 18. atty. 10. Docket 18 =	123
Rules, 1.00.	entering return 55. file bill 15. 50 24. 15 =	165
Copy Exhibits 1.00	filing Com. in chg. report 25 =	125
replication 15. 2 Decrees and 1 copy 1.08	tax com. 12. 40 =	163
filing away papers 25		= 25

10/22/1902 pd. by E. F. Slony L. R. Gay
pd J. M. Hume

blank 601
Shff 400
Draw 16.50

\$26.51

Fee of J. B. Primen Jr. Com. in chg.

5.00

\$31.51

Total:

L. R. Gay 44.

Doake Assigned

vs } Copy of Stat. of Court
Bobby J. Eg.

Drake, Assignee

vs. } stat. of costs

J. E. Cobb

Sum 20, 1 cop. 10, receipt 18, atty. 10, docket 18 = 76

Rules 50, fil. declaration 15, order & judgment 36 = 101

Abstract of judgment 25, execution 40, receipt 18 = 83

Int. costs re. 40, filing away papers 20 = 60

Docket judg. 25, fil. away abstract 20 = 45

11/8/1901 PD by L. R. Gay

L. R. Gay

Shk. \$3.65

J. H. Williams Paid Shk. 50

Law fee. 3.50

\$7.65

A. R. Gay.

True: L. R. Gay L. R.

Drake,

• { Guss's Report
Bobby et al

1902, Sept. 26th, 1902, filed-

L. A. Gay C.C.

OFFICE OF JOS. B. PRINCE, JR.,

Commissioner in Chancery for the Circuit Court of Southampton County, Virginia.

Courtland, Va., Sept. 18th, 1902.

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To

E. F. Drake,

vs.

J. E. Cobb, Cathrine M. Cobb, C. C. Vaughan, jr., Trustee. + B. C. Vaughan

You are hereby notified that I have fixed upon the 25th day of September, 1902,
~~if fair~~ if fair, if not the next fair day thereafter (Sunday excepted), to take and settle, at ~~my~~ office,
~~the following accounts, to wit:~~ *Parker and Hoty, Francis Lin, Va. the following accounts, to wit*

1st:-The annual and fee simple value of the real property mentioned
in the bill of the complainants in the suit Drake vs. Cobb et als.

2nd:- What liens there are in the said property, with their dignity and
priority, for delinquent taxes or otherwise.

Third:- The interest of the several parties in the said land.

4th:-Any other matter deemed pertinent by the commissioner, or* requir-
ed to be stated by any interested party.

required to be taken by a decree of Southampton Circuit Court, rendered ~~at the~~ Apl. 8th,
~~1902~~ 1903 in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs
and defendants; at which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of said Court the day and year first
aforesaid.

J. B. Prince Jr, Commissioner.

To the Sheriff of Southampton County to execute.

Doane & F.

vs. { Camera. Notice
Cobb et al

We hereby acknowledge
due and legal service of
the within notice -

attys for plaintiffs

Heard

Sept. 22nd 1902.

J. H. Williams

(4)

~~The depositions of~~

The depositions of C.O.Vaughan and others taken before me J.B.Prince, jr., a commissioner in chancery of the Circuit Court of Southampton & county pursuant to notice hereto annexed, on Sept. 25th, 1902, to assist said commissioner in making a report in the suit E.F.Drake v. J.E.Cobb et als to the said Circuit ^{Court} of said county.

Witness C.O.Vaughan after being duly sworn deposes as follows:-

Q. State your name, age, residence, occupation and do you know the parties to this suit?

A. C.O.Vaughan, 63, Franklin, Va., Banker, Yes.

Q. Are you familiar with the property known as the J.E.Cobb farm?

A. Yes.

Q. What in your opinion is its fee simple value?

A. I think with a clear deed it would sell for \$1250 or may be, \$1500.

Q. What do you think it would rent for?

A. I should think \$100. *\$125.00*

Q. And further this deponent saith not.

C. O. Vaughan

Witness J.S.Cobb after being first duly sworn deposes as follows:-

Q. State your name, age, residence, occupation and do you know the parties to this suit?

J.S.Cobb, 33, Franklin, Va., Constable, Yes.

Q. Are you familiar with the J.E.Cobb farm?

A. Yes.

Q. What in your opinion is a fair value for the farm?

A. I should say \$1800.

Q. What do you think it would rent for?

A. For \$125 or \$150, perhaps.

And further this deponent saith not.

J. S. Cobb

*Causer. fee.
\$7.50*

Drake, E. F.

vs

Cobb et als.

-----:

This day this cause came on to be heard upon the papers formerly read and was argued by counsel.

On consideration whereof, and it appearing to the Court from statement of plaintiffs counsel, that the matters in dispute in this cause have been fully settled, and nothing further remains to be done therein, on motion of plaintiffs, it is ordered that same be removed from docket.