1908- 12 Southampton County Chancery - Kitchen, William E. et als Sr. Vs Kitchen, William E. Jr. et als

void on early deed —
re-convey new deed

Kitchen, Susan

Kitchen, Georgiana
" , Sarah E.
" , Margaret R.

WILLIAM E. KITCHEN, SR.

Vs.

WILLIAM E. KITCHEN, JR.,

and others.

Enter Dec. 3rd. 1908.

Julius L. McSmore

Entered C. L. B.

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Virginia, In Vacation, In The Circuit Court for Southampton County.
January 3rd. 1908.

WILLIAM E. KITCHEN, SR.

Vs.

WILLIAM E. KITCHEN, JR., AND OTHERS.

This day this cause came on to be further heard, on the inspection papers formerly read, the answer of the defendants, and the depositions of witnesses on behalf of plaintiffs and defendants, and was argued by counsel. On consideration whereof the court being of opinion that the deed, purporting to have been made by William E. Kitchen, Sr. and Susan, his wife, on the 17th day of April 1886, to William E. Kitchen, Jr., was made and executed under a mistake of facts, the grantors believing that they were conveying, and intending to convey, thereby only ten (10) acres of land and not the entire farm, and being further of opinion that the said deed is illegal and invalid, doth adjudge, order and decree that the deed aforesaid from the said William E. Kitchen, Sr., and Susan, his wife, to the said William E. Kitchen, Jr., and dated on the 17th day of April, 1886, and duly recorded in the Clerk's Office of Southampton County, be and the same is hereby cancelled and set aside and declared invalid, void and of no effect. And in order to carry out and effectuate the intention of the parties to said deed, the court doth further adjudge, order and decree that the said William E. Kitchen, Jr., and _____, his wife, do re-convey by a good and sufficient deed to Georgiana A. Kitchen, Sarah E. Kitchen, and Margaret R. Kitchen, devisees of William E. Kitchen, Sr., deceased, the property mentioned and described in the said deed dated April 17, 1886, aforesaid. And that the said Georgiana A. Kitchen, Sarah E. Kitchen, and Margaret R. Kitchen do by good and sufficient deed, convey to William E. Kitchen, Jr., ten (10) acres of the said farm to include the dwelling house erected thereon by said William E. Kitchen, Jr., and to be otherwise selected by him and marked off by some surveyor to be employed by him unless

the parties shall agree on the boundary lines thereof. And if the said William E. Kitchen, Jr. and wife shall fail to make the conveyance herein required of them within sixty days from the entering of this decree, or if the said Georgiana A. Kitchen, Sarah E. Kitchen, and Margaret R. Kitchen, devisees of William E. Kitchen, Sr., deceased, shall fail to make the conveyance herein required of them within sixty days after William E. Kitchen, Jr., shall by writing designate the boundaries of the ten acres, including his dwelling house selected by him aforesaid, then in either event ~~W. J. Sebrell and~~ John N. Sebrell, Jr., who ~~are~~ is hereby appointed a Special Commissioners for the purpose, shall make the deed or deeds herein provided for and will report to court.

And the court doth further adjudge, order and decree that each of the parties hereto pay their own costs in this behalf expended.

All of which is hereby certified to the Clerk of this Court to be entered in the Chancery order book

James L. McSmore

That cert. for a par. land known as the Pierce Track, containing 200 acres more or less, & bounded as follows,— "North by land of Jno Hicks, East by land of Wm Davis, South by land of Ned Lankford, West by land of Nancy R. Stephens — Same conveyed to W.S.K. Jr. by deed dated 17th Apl. 1886 & recorded in N.B. 39 — page 163.

Form No. 309.

Kitchen, et als
Kitchen vs. et als.

E. Frank Story & J. L. McLaurine

to

COMMISSIONER'S
BOND.

Commonwealth.

Hand to J. C. Parker

Everett Waddey Co., Stationers and Printers, Richmond, Va. } Form No. 309.

Know all men by these Presents, That we, E Frank Story and James L W Lenore and the United States Fidelity & Guaranty Co. are held and firmly bound unto the Commonwealth of Virginia, in the sum of Forty Five Hundred Dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our Homestead Exemptions as to this obligation, and any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds of this State. Sealed with our seals, and dated this 18th day of October one thousand eight hundred and ninety four.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound E Frank Story and James L W Lenore shall faithfully perform the duties of their office or trust, as Special Commissioners under a decree of the Circuit Court of the County of Southampton pronounced on the 18th day of October 1894 ~~189~~, in the suit therein depending under the name and style of Kitchen et als. vs Kitchen et als.

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the presence of

E Frank Story SEAL.
James L. McLemore SEAL.
United States Fidelity & Guaranty Co. SEAL.
By E Frank Story, its attorney in fact.

In the Clerk's Office of the ..... *Court of the* ..... *of* .....

This day ..... surety ..... on the above bond, made oath before me, ... Clerk of the ..... Court of the ..... of .....

that ..... estate ..., after the payment of all ..... just debts, and those for which ..... bound as securit ..... for others and expect to have to pay, ... worth the sum of .....

..... dollars.

Given under my hand this ..... day of ....., 189....

Teste: ..... Clerk.