

1816-008

Chancery Causes: John Cunningham VS William Jordan's admx

Isle of Wight County

answer make to each and every allegation contained therein - That in the mean time she, her attorney and all others be enjoined from further proceedings at law, untill the case is fully heard in Equity, and that there the Injunction be perpetuated - and such further or other order ~~and~~ decree entered for your orators relief & behalf as may Comport with the justice of his case and the Rules of the Court - and ~~lastly~~ she, as in duty, &c. J. Barber P.2

Jls of Wright County, to wit.

This day John Cunniff has made oath before me, a justice of the peace for said County, that the foregoing bill is true, to the best of his knowledge & belief. Given under my hand the sixth — day of Dec^r 1853. —

B. Drew. J. P.

18
20
18
38
18
40
225
745
745

Birmingham } Bill
vs } 4 Exhibits
Jordan

December 1853

Bill filed &c.

February 1854

Ans. filed

June 1855. report to Sub. Librarian - Master's return &c. that he make rpt.

June 1856 order of reference set aside and original destroyed with same & costs —

Costs 745 sent to file &c.

June 1857 report
1857

are for greater certainty, hereto annexed as exhibits to this bill - and prayed to be considered as such. — Your Orator represents - that Jordan, abusing the trust & Confidence reposed in him as aforesaid, fraudulently, took advantage of - your Orator in making up the estimate between them, in the following instances - VIZ.

In charging "Dressing posts & Nailing for Piers & Parach" } £12.0.0
which was never performed

In overcharging, at the rate of one Shilling & Six pence
of hundred feet, on 14.060 feet of Plank } 10.10.9
and scanty, saw'd by him - namely 7/6
£100 - in place of 6/- of agreement

The same on 1000 feet of Oak ^{Timber} at same rate; beside } 15.0.0
that your Orator avers the house, did not
require half the quantity charged. —

In omitting to credit your Orator, for 2.720
feet of Plank and scanty, of the }
very best quality, lent to him by y^r
Orator, & which Jordan used in the } 24.9.7
building of John Linclairs house in }
the Town of Smithfield, at 18/- per 1000. } 47.15.4
Delivered before Estimate made —

Your Orator cannot avoid remarking - that the last omission above mentioned, is noticed by Jordan in the estimate aforesaid; but not carried out, on the contrary, it is crossed, as your Orator thinks, under a promise to return the same quantity of Plank and scanty, of equal quality, the said Jordan Chusing to do so; but, your Orator avers that it never was done. — These Errors of Mr Jordan, had they been detected in due time would have brought him in debt to your Orator in the sum of £17.15.4. — added to which, your Orator made payments towards the discharge of his note aforesaid to the amount of 16.5.7 which are credited thence, and one for 10/-, the value

of one Empty Runn Haggard sold and delivered to the said Jordan on the 7th day of Aug^r 1786. at which period he had not lost his confidence in Jordan; & being pitted constantly, at sea - it was some time afterwards thereafter before he suspected the aforesaid Errors and, on examination found them as herein stated. Upon the whole view of the Case - at the time your Orator gave his note to Jordan, Jordan was indebted in justice to your Orator £17.15.4 and now, by means of the payments aforesaid of 16.15.7 - erroneously made and unjustly demanded. — Your Orator, at this time - stands justly, entitled from the estate of the said Jordan - £34.10.11 - beside interest; but which, from the nature of the action, & other causes he cannot now here claim judgement for — and therefore must remain a sufferer after this Hon^{ble} Court has exhausted its equitable Powers for his relief. Notwithstanding the premises, the said Jordan - sued your Orator in the said Court some time early in the year 1803 - in the common law side of this Court, which afterwards abated by the death of the plaintiff. In ~~1805~~ 1805 the suit was renewed by Sarah Jordan the admt^{ess} of the said William Jordan, and at a subsequent Court, your Orators defence being purely equitable he was obliged to submit to a judgement at law, on which he is thrust with execution — all which actings and doings of the said Wm Jordan in his lifetime - and of Sarah his admt^{ess} since his death, is contrary to justice, equity, and good conscience, and tends greatly to the injury and oppression of your Orator. He tender Consideration whereof and forasmuch as he is only, and properly, relievable in a Court of Equity having jurisdiction; which this honourable Court has. — He prays that the said Sarah admt^{ess} as aforesaid may be made defendt^{ess} to this bill, and on all Exposed Oth^s, full, true and perfect

To the worshipful Court of Isle of Wight County in Chancery,
sitting, Humbly Complaining, Sheweth, unto the Court—your Orator
John Cunningham. That previous to the 12th of Oct^r in
the year of our Lord 1784—your Orator, and one William Jordan,
then a house Carpenter in the said County, had had various
Contracts and transactions together, ~~based upon~~,
principally, ~~on~~ a Contract—about building a house for your
Orator ~~the~~ which is here unto annexed as an exhibit to this
bill and prayed to be considered as such; so far, as respects
the prices of articles therein mentioned, and no further;
having been, in other respects, released by a subsequent Writing.
Your Orator here states to the Court, That; being actively engaged
as Comm^{an}d^{er} of a Vessel, in the sea faring life, and the
said Jordan closely employed in other works, it appear
to your Orator that to progress with the building according
to the aforesaid Contract, ~~would~~ after the said 12th day
of October 1784, would prove inconvenient to both
parties, and therefore he proposed to the said Jordan,
to cancel the Contract, as to what remained unperformed
on the said 12th of October, to which proposal the said
Jordan readily agreed. That ~~on the day last aforesaid~~
he, the said Jordan made an estimate, by which he brought
your Orator in debt £37. 11. 9— which estimate is herewith
annexed; & bears date March 27th 1782; the Charges in
which are made, on Condition that the work therein charged
should be done and performed. For reasons at present
not remembered, on the said 12th of October, the estimate
made by Jordan reduced the balance, against your Orator
to £30— for which sum, without having time or opportunity
to examine minutely into the Charges; and, with all having
implicit Confidence, at that period, in the Justice and
Conscientiousness of him the said Jordan, your Orator executed
a written obligation; in & by the terms of which, the ^d
Jordan released your Orator from all former Contracts,
^{a copy of} which obligation, and the original estimate made by

Jordan acont.

abs.

Birmingham

Amos

combination and confederacy whereinto she stands charged in and by
the said Bill of Complaint: Without that, that there is any other
matter or thing material or necessary for this respondent to make
answer unto, and not herein or hereby well and sufficiently answered
unto, confessed or admitted because or denied, is true - All which
matters the Defendant ^{is ready} to aver and Prove, as this honorable court
shall direct and advise, humbly Prays that the complainant's bill
of complaint may be dispensed with that she may receive the benefit
of her judgment at law, with her costs & charges in this behalfs
most respectfully submitted

And your orator shall ever Pray &c.

Isle of Wight County, to wit,

This day Sarah Jordan came into court before
the Subscribes a justice of the Peace for the county aforesaid
that the allegations of the foregoing return so far as they
relate to actings and doings of the said Sarah are true,
& so far as they relate to the actings and doings of
others, she believes them to be true -

Given under my hand this 5th day of
February 1814.

North Mills

The Answer of Sarah Jordan Administratrix of
William Jordan decd. to a Bill of Complaint exhibited against
her in this worshipfull Court, by John Cunningham

The Respondent saying and coming to herself
now, and at all times hereafter, all and all manner of benefit &
advantage of exception to the manifold incertainties and imperfections
in the complainant said bill of complaint contained, for answers
thereunto, or unto so much thereof as materially concerns the defendant
to make answer unto, she answerseth and saith -

That she believeth it to be true that her intestate before
her intermarriage with him, had various dealings and transactions
with complainant, and doth also believe that at some Period, there
existed a contract about building a House, but that before the
work was completed, the said contract was canceled by mutual
consent: That when a fair and honest settlement, the Com-
plainant became indebted to Mr Jordan, her intestate, she believes
in the sum of thirty Pounds, for which the complainant owes
his obligation: Your Respondent is advised, that it would
be illegal & improper to receive the claims sought to be satisfied
by the complainant as a set-off to her demand, having
now been standing about thirty years, and thereby unjustly
deprive her children of this small Pillar of their Patrimo-
nial estate - She relies with great confidence upon the
circumstances of the complainant having given her Bond, after
a settlement of accounts: she is ignorant of any mistake
which is supposed to have taken Place, & she claims that any
fraud or improper conduct was exercised by her intestate
in relation to the adjustment of her account -

And the Respondent denies all and all manner of

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Jordan's Esti
mate

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~~By the Hon. Secy of the Interior~~
 William H. Jordan
 Jordan's Est

Capt. John Cunningham

1782. March 27 — To William Fordan. L.

To 100^{lb} fodder bought for Steam when halting 0-10-0
To 14.060 feet of plank and scantling $\frac{1}{4}$ 53-10-0
To 1,000 feet of oak $\frac{1}{4}$ 6 provided the work is ^{done} 3-15-0
To sending to mill and cooking 22 weeks at 6/9 4-8-8
To 14 Window frames $\frac{1}{4}$ 6 5-5-0
To 6 small off & 16/3 2 siller door frames $\frac{1}{4}$ 2-12-6
To 6-6 pannic windows & shutters $\frac{1}{4}$ 15 4-10-0
To 8-6 pannic doors $\frac{1}{4}$ 15/200 light glass $\frac{1}{2}$ 6-5-0
To planing for the rig plank 5-0-0
To Rounding shingles J. J. J. J. J. 1-18-8
To dressing flooring plank for 20 Square 20/20-0-0
To dressing posts & rails for piazza and porch 12-0-0
and getting casing and ball and corner for same
122-16-2
The above charges is if the work is done —

ditto C.

By 11 1/2 Hls. Rye 11/2	62" 14" 6
365 ^{lb} Sugar at 1/3 — 25 ^d — 20 —	22" 16" 3
By 1800 feet of plank boarded	84" 10" 5
By 920 feet of scantling boarded	37" 11" 9
	Balance Due
	William Fordan

Bill Coost
house

A house to be built by 10.10.18			
2 sills 10 by 12	4	10	40
4 do 10 - 12 - 10	1	3	2
2 posts 5 - 11 - 4 1/2	1	2	2
23 Joists 4 - 9 - 20	5	0	4
19 sleepers 4 - 10 - 10	3	0	0
32 posts & braces 5 - 9 - 10	4	4	0
50 studs 3 by 5 - 10 1/2	3	5	0
46 rafters 4 - 4 - 9	2	7	4
46 do 3 - 4 - 12	3	2	2
14 piers 4 - 6 - 13	1	5	4
14 do 4 - 7 - 12	1	1	2
12 do 4 - 5 - 12	1	0	0
50 ashlays 3 - 4 - 8	2	5	0
23 win beams 3 - 4 - 8	1	1	5
1 Feathered plank	1	2	0
1 1/4 inch plank for floor	5	2	0
1 inch plank for pan nills	2	0	0
3/4 plank to shingle on	3	0	0
Piazza			
2 sills 9 by 11 - 4 1/2 long	1	4	4
2 do 9 - 11 - 10	3	4	4
21 sleepers 4 - 7 - 10	2	1	0
23 Joists 3 - 4 - 12	1	0	4
23 rafters 3 - 4 - 14	2	0	7
10 studs 3 - 4 - 10	1	0	0
10 posts & rails 5 - 5 - 10	1	5	5
1 plate 4 - 9 - 4 1/2	5	0	0
Stuff for pan nisters	5	0	0
Porch			
2 sills 8 by 10 - 12	2	4	4
2 do 8 - 10 - 10	2	4	4
2 plate 4 - 8 - 12	2	4	4
2 do 4 - 8 - 10	2	0	0
5 Joists 3 - 6 - 12	4	5	5
4 sleepers 4 - 8 - 10	4	0	0
12 posts & rails 5 - 5 - 10	1	1	0
23 win beams 3 - 5 - 11	2	5	0
	17	9	9
	2	5	0
	18	2	4

Jonathan Godwin

To 18,000 feet of plank & scantling for 1 house		
1 piazza and 1 porch at 10 p. 100		5 1/2 0 0
To 12 p. 100 of weather boarding 10 p.		1 1/2 0 0
x 14 do. of flowering sunset laid on		1 1/2 0 0
18 1/2 do. of shingling		5 11 0
x 88 feet of box and cornice at 1/2		4 0 0
110 do. single cornice at 1/2		2 15
80 feet of Barge boards at 1/2		2 0 0
40 do. Barge boards at 1/2		4 4
x 14 do. of window frames at 1/2		1 10
x 6 siller. do. 5/2		1 12
x 2 siller door frames. 1/2		1 12
2 siller doors - 1/2		7 10
1 pane case window shutter		3 11
x 6 do. pan nills		4 14
x 8 do. pan nill door 1/2		5 0
x 200 lights of sashes at 1/2		4 0
to casing 8 doors at 10 p.		3 0
casing 4 windows - 10 p.		1 12
casing 8 do. dormers at 1/2		4 11
to sitting 8 dormers at 1/2		1 12
to 40 yards of Main scote at 1/2		2 1
to 204 feet of muntition cornice 1/2		1 1/2
to 192 feet of hearboards with surbore		3 1
to 192 do - Mark board plane 1/2		5 0
To filling and hanging door putting back		4 0
On locks hanging window shutters		4 10
x to planing feathered plank		4 10
x to rounding the shingles		4 10
To building 1 piazza 10 wide 4 1/2 long		1 1/2
To building 1 porch with the out dormer		1 1/2
To be done up to the hall with pan nills		1 1/2
To 274 pan nisters at 1/2		2 22 12 0
25 percent laid on 236 - 0/59 2/2		19 11 0
		236 0 0
		59 2 0
		295 10 0
To laying the bricks		37 10
To lathing & plastering house		37 10
		770 10

Any addition more than is now mentioned on this bill, to be added to the charge
 Any reduction to be taken out of the charge at the same rate now charge
 William Jordan. Secy
 John Curingham Esq

11

Jan 4th 85 By 236th Sugar 2.48 . . . 5.12.10
 259 Grow By 233 50 257 . . . 5.4.9
 By 865 for Seant 2.12/8 . . 5.7.~
 By 11 full of 1/2 bush plank 1.~
£10.5.7

Copy of note

Smithfield October 12th 1784

For value rec.^d I promise to William Jordan or order on demand
the sum of thirty pounds for which the said William Jordan agrees
to let me off of all former contracts as Witness my hand —

Teste
John Chapman

John Cunningham Seal

Copy Teste J. A. Dick D. C.
— Q —

Birmingham
to 3 High Court
Jordanstown

Know all men by these presents that we John Cunningham and William
Gibbs are held and firmly bound unto Sally
Jordan adm^r of William Jordan dec^d: in sum of - Sixty pounds " " "
Current money of Virginia to which pay men

well and truly to be made we bind ourselves our heirs Executors and administrators
Jointly and severally firmly by these presents sealed with our seals and dated this 8th day
of August 1810

The condition of the above obligation is such that whereas the said Sally Jordan
adm^r of W^m Jordan " hath obtained judgement at common Law against
the said John Cunningham & in the county court of Isle of Wights for £30.0.0
with out &c and cost and the said John Cunningham

has obtained an injunction to stay the execution of the said judgement
untill hearing the matter in equity upon a Bill filed for that purpose
if therefore the said John Cunningham shall satisfy and pay the said
Judgment at Law and all cost and damages that shall be owing to the said Sally
Jordan adm^r aforesaid in case the said injunction shall be dissolved

that then the above obligation to be void else to remain in full force & Virtue

Signed and sealed

in presence of

D. Dick

John Cunningham

Wm Gibbs

Jordan Admire

as 3 Copy the 1st

Livingham

Isle of Wight County - March term 1810

Wally Jordan administrator of William Jordan decd. Plt.
against
John Cunningham. Debt }
Deft }

This day came the parties by their attorneys and the defendant
relinquishing his former plea, the attorney for the said defendant
says that he is not informed by the defendant to give any answer
in the action aforesaid and says nothing, else in bar or prosecution
thereof whereby the plaintiff remains against the said defendant
thereof undefended. Therefore it is considered by the court
that the plaintiff recover against the defendant thirty
pounds the debt in the declaration mentioned with
interest for the same to be computed at the rate of five
per centum per annum from the twelfth day of October
1784 till paid and her costs by her about her suit in this
behalf expended & Equity reserves the defendant
Subject to a credit of £10. 5. 7

Profy
Jesse D. Dick P.C.
20