

1856-006

Chancery Causes; Edward R. Johnson vs Anthony Persons & James M. Council

Isle of Wight County

other SURNAMES: PERSON

In the Circuit Superior Court of San 16 January
for the County of Isl of Wight, October 20th. 1846.
Thomas Hall admsr. of Robert A. Clay decd. Plff.
against
3 In Debt.

Edward B. Johnson

Defd

This day came the parties in their answers
and defendants in his answer for plea sixth
that he has well and truly paid the debt in
the declaration mentioned, to which the Plaintiff
by his attorney replied generally and thereupon
came a jury to wit James W. Wheadon, 13th
Esqr. Monie Johnson, John B. Pease, George W.
Andrews Thomas Green, William Johnson, Truman
L. Elz James Gray Robert H. Plum Henry
Parker and Benajah Brooks who being elected
tried and sworn the truth to speak upon the
oath joined upon their oath returned the
following verdict. We the jury find for the
Plaintiff the sum of one hundred and fifty
nine dollars and thirty two cents with interest
thereon from the 20th day of October 1846 till paid
and his costs. Therefore it is considered by the court
that the Plaintiff recover against the defendant
the said sum of one hundred and fifty nine
dollars and thirty ~~two~~ cents with interest thereon
from the 20th day of October 1846 till paid and his
cost on his behalf expended and the said defend-
ant in mercy.

Attest

Teste

A. P. Young co.

Clay's A. B. M.

21 1/2 Co. degt.

Johnson

This Indenture made the 14th day of May in the year of our
Lord 1842, between Edward R. Johnson (the Debtor) and Mary
his wife of the first part, Anthony Persons (trustee), of the second
part, and James M. Conneill the creditor, of the third part, Whereas
the said Edward R. Johnson and Mary his wife, are truly indebted
to the said James M. Conneill in the sum of Seven hundred and
thirty nine dollars, to be paid on the 15th day of Dec^r. next, in the
year 1842. as by a bond bearing date on the 14th day of May in
the year 1842: more fully appears, which debt with the legal
interest thereon accruing, the said Edward R. Johnson and
wife, are willing and desirous to secure; Now this Indenture
witnesseth; that for and in consideration of the premises and also
for the further consideration of one dollar, of lawful money of
Virginia, to the said Edward R. Johnson and Mary his wife in
hand paid by the said Anthony Persons, trustee, at and before the
Sealing and delivery of these presents, The receipt whereof is hereby
acknowledged; he the said Edward R. Johnson and Mary his wife,
hath, given, granted, bargained, sold, aliened, enfeoffed, released and
confirmed, and by these presents, doth give, grant, bargain, sell, alien,
enfeoffed, release and confirm, to the said Anthony Persons his heirs
and assigns forever, all that tract or parcel of land lying and being
in the County of Isle of Wight in the State of Virginia, Containing
three hundred Acres, be the same, more or less, and bounded as follows
East by the land of James Holland & Malen Johnson; South by the
land of Allen Hedgebeth, West by the land of Lethro Butler, North
by the land of James Holland & John Vaughan; Also the following
Negroes by name. Nathan, two horses, four Beds & furniture,
six Windsor Chairs, six flag bottom do., two desks & Book Case,
one Buffet, One Walnut Table, One pine Chest, one Clock, fifteen
Cattle, fifteen Sheep, thirty Eight hogs, Household & Kitchen
furniture, Corn and fodder, all that I am possessed of, present
Crop of Corn, fodder, potatoes & Cotton; With all and singular, the
appurtenances, to the said tract of land belonging or in anywise
appertaining, and all the estate, right, title and interest of the

Said Edward R. Johnson, in and to the said granted, or intended to be hereby granted tract or parcel of land and premises: To have and to hold, the said hereby granted or intended to be hereby granted tract or parcel of land and premises, with its appurtenances, together with the aforesaid Slave, and all the other personal property hereby conveyed unto the said Anthony Persons, his heirs, Exor. admor. & assigns forever to the only proper use and behoof of the said Anthony Persons his heirs, Exor. admor. & assigns forever; And the said Edward R. Johnson and wife for themselves, their heirs Exor. admor. doth hereby covenant, promise and agree to and with the said Anthony Persons his heirs Exor. & admor. & assigns forever, in manner of and following, that is to say, that the said Edward R. Johnson his heirs & admor. the aforesaid tract or parcel of land and premises, with their appurtenances together with the aforesaid Slave - And all the other personal property hereby conveyed unto the said Anthony Persons his heirs Exor. and administrators - against all persons whatsoever shall and will warrant and forever defend, by their presents, upon trust, nevertheless, that the said Anthony Persons, his heirs Exor. admor. & assigns shall permit the said Edward R. Johnson to remain in quiet and peaceable possession of the said tract or parcel of land, and premises with its appurtenances, together with the aforesaid Slave, and other personal property hereby conveyed, and take the profits thereof, to his own use, until default be made in the payment of the said Sum of seven hundred and fifty nine dollars, either in the whole, or in part; and then upon this further trust, that they, or any two, or either of them or the survivors of them, or heirs Exor. admor. or assigns or such survivors shall and will so soon after the happening of such default of payment, as they or any or either of them, or the survivors of them or the heirs Exor. admor. or assigns or such survivors of them may think proper or the said James M. Conncill his Exor. admor. and assigns shall request, sell the said tract of land premises, appurtenances, together with the aforesaid slave, and all the personal property hereby conveyed, or such part of the hereby granted premises, as the trustee or his representative, hereby

Authorized to act, shall think sufficient for the purpose - and shall think proper to sell to the highest bidder for ready money, at public auction, after having fixed the time and place of sale, at their own discretion - And given fifteen days notice thereof, at the Courthouse door, and other public places in the neighbourhood, and out of the moneys arising from such sale, shall after satisfying the Charges thereof, and all other expenses attending the premises; pay to the said James M. Conncill his Exor. admor. and assigns, the said Sum of seven hundred and thirty nine dollars, the interest which may then have lawfully accrued, and the balance if any, shall pay to the said Edward R. Johnson - his heirs Exor. admor. or assigns, But if the whole of the said Sum of - - - shall be fully paid off & discharged to the said James M. Conncill his Exor. admor. or assigns On or before the 15th day of Decr. 1842. the same is payable - so that no default of payment of the said Sum of seven hundred and thirty nine dollars be made, Then this Indenture to be void, or else to remain in full force and virtue. In witness whereof the said parties to these presents, have hereunto set their hand and affixed their seals the day and year first above written.

Signed & delivered in
the presence of
Jmth H. Wright
Alfred R. Butler
Andrew Lester

Edward R. Johnson *Ed*
Anthony Persons *Ans*
Mary ^{his} Johnson *Ans*
^{mark}
Jas M. Conncill *Ans*

Isle of Wight County.

We Jacob H. Duck and Francis M. Boykin Justices of the peace in the County aforesaid in the State of Virginia, do hereby Certify, that Mary Johnson the wife of Edward R. Johnson, parties to a certain and bearing date the 14th day of May 1842. and hitherto annexed, personally appeared before us, in our County aforesaid, and being examined by us privately and apart from her husband, and having the writing of her said fully explained to her, she the said Mary Johnson

acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed and delivered the same, and that she wished not to retract it, Given under our hand and seals this 14th day of May 1842.

Jacob H. Duck *Seal*

Francis M. Boykin *Seal*

In the clerk's office of Isle of Wight County Court May 16th. 1842.
This indenture was acknowledged by Edward R. Johnson, Anthony Persons and James M. Conneill, parties thereto, and with the Certificate of the privy examination of the former Court annexed, and admitted to record.

Teste

A. Copy

Teste.

Fr. C. Latimer D.C.

Edward R. Johnson

to

John of Court

Anthony Persons. Conneill

for James M. Conneill

J. H. Boykin

Copied "A"

Edward R. Johnson

11

~~Ex parte~~

Anthony Persons & James M. Cornue

The proof in this cause having been ^{the Bill of Complaint is taken for confessed as to them} ~~speculated~~ on the defendants, and they failing to answer, the decree nisi entered at Rule as to them is confirmed: and this cause came on to be heard on the said Bill & exhibits, was argued by counsel, on consideration whereof the Court doth order, adjudge and decree, that a Commissioner of this Court take the following account:

An account of the transactions of Anthony Persons as trustee under the deed of Trust referred to in the proceeding, dated the 14th of May 1842, for the benefit of James M. Cornue & take report to Court, together with any matter deemed pertinent by himself, or required by the parties to be stated.

* This cause came on this day to be heard on the bill taken for confessed at the rules against the defendants, on whom process had been duly served and they still failing to answer, on the exhibit filed with the bill, and was argued by counsel

x
Ed. R. Johnson
V. Secre
Persons & Council

To be entered
R. H. Baker
May Co. 55.

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON *Anthony Person and*

James M. Council

to appear at the Clerk's Office, of our *Court* Court for Isle of Wight county, on the first
Monday in *March* next, to answer *a bill in Chancery*

to be filed against them in said Court by Edward
B. Johnson
of ~~a plea of~~

damages

and have then and there this Summons.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, at his Office, this *24th*
day of *February*, 185 *5*, in the *79* year of the Commonwealth.

N. P. Young

Edward B. Thuron

3
3
3 Sum. in
Ely.

Anthony Person and
Henry W. Cornwell

To March 2nd, 1853
Whitfield Co. Ga.

Received and
a Gro. copy pay
amount to it
Persons and James
H. Cornwell
at face value

To the Hon. Richd. H. Baker judge of the Circuit Court
of Isle of Wight County. In chancery telling: Henry
C. complaining sheweth unto your honor, your Orator Edward
R. Johnson, that sometime in the year 1842, he executed a deed
of trust bearing date on the 14th May 1842, & of Record in the Clerk's
Office of said County, a copy of which marked "A" is herewith
filed as a part of this, to one Anthony Persons the trustee to secure
a debt of \$739. payable on the 15th Decr 1842, ^{as given to me James M. Council;} and of. And for this end he
conveyed by said deed a tract of land containing about 300 acres,
a negro, named Nathan, besides other property therein mentioned
all of which will more fully appear by reference to said deed.

That in the fall of that year, the said James M. Council the
Orator, caused a sale to be made, by the said trustee, Persons,
of the said land and negro Nathan, a portion of the property.
At the sale made by Persons; the land was sold, ^{the said} bid off by James
M. Council for \$27.00, and the negro, Nathan was also bid off
by the said person at \$41.75. Your Orator alleges, that the sale of the
negro was ^{illegal} unconscionable, as the land brought enough to pay the debt
and costs of the trust, a matter which he at the time was ignorant of
for he has little knowledge of business, and at the time was still left
prepared to investigate and maintain his rights from the fact that
he saw his property sold, under the pretence of the time, much below
its value, which threatened him and his family with total insolvency,
the bitter consequences of which he soon after, and ever since, (~~and now~~)
fully experienced. Soon thereafter, a another sale was made under another
deed of trust to one Mr. Wright to secure a debt to one No. L. Ely, of all
other property he possessed of every description. Still your Orator was willing
at any sacrifice to pay his debts, but he alleges, that he has been unjustly
treated by the said trustee Anthony Persons, in that that he has all
along, and does now refuse to give any account, or statement of
his transactions of sale; or what disposition he has made of the
proceeds of sale; or to give him up the bond mentioned in the
said deed of trust, to discharge which the sale was made of his land
and negro Nathan; or to account for the surplus. Your Orator
does not and know where the bond is. It may be still outstand

-ing against him, a fact or apprehension your orator alleges, he has
cause to dread, since he has had to pay a part, if not the entire debt
in the other deed of trust referred to herew, after more than enough had
been sold to pay the same. Your orator has repeatedly called on the
said Anthony Persons for a settlement of his transactions as trustee,
to afford him some intelligence, or give a statement of the amount
of his ^{said} sale, and the disbursement of the proceeds - from a short time
after the sale, until the present moment, which he has continuously
refused. Your orator would long since have forced a settlement if
he had known that it could have been done - having been told
~~that not until~~ by the said trustee, that under the law as then exis-
ting he was not compelled to return any account, report, or the
like of ^{his} acting, and doing, &c.

Your orator is without adequate remedy, save in this Honorable
Court; and he therefore prays that the said Anthony Persons, and
James M. Council, may be made parties defendant to this bill -
that they shew to this court the fairness of said sale, and that it
was made in conformity with the requirements of the trust deed;
and if not so made, he prays that the same be set aside, and another
ordered - and that at all events, that Anthony Persons trustee ~~under~~
be compelled to render an account before a commissioner of this court
an acct of his said sale ^{to} made, of the said tract of land & negro Mathews
the price paid therefor; & what disbursements were made there; and
the evidence therefor; and that James M. Council answer & say what he
gave for the land and negro, and what became of the fund, and
the surplus; and ^{for} all proper relief which may be just & equitable your
orator most humbly prays. &c.

N. H. Whitfield PR

Edward R. Johnson

$\frac{1\frac{1}{2}}{3}$ Recd

Persons D. Coines

March 22, 1835 filed

Edvard B. Johnson

vs. $\frac{2}{3}$ Ch. paper

Person vals.

March Rules 1855. Sund. 2^d
Bill 8^o filed & decr. miss
in deft.

April Rules 1855. See for
hearing on jllp. motion.

May 1855 Decr. O. 12. 2. p. 42.

Octo. 1855 cont. for rept.

May 1856. Cont.

Octo. 1856. Dismissed.
