

1901-010

Chancery Causes: Frank M. Powell

v. A. Bunkley's exors

Isle of Wight County

other surnames: Wright, Parker,
Chapman, Driver, Martin

Frank M. Powell.

Versus. In the Circuit Court of the County of Isle of Wight.

A. Bunkley's Executors.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of Commissioner Boykin this day filed by leave of court, and was argued by counsel; on consideration whereof the court doth confirm the said report to which no exceptions have been filed. And nothing further remaining to be done herein it is ordered that this suit be ~~dis-~~
stricken
~~missed~~ from the docket.

Frank M. Powell.

Vs. In Chancery.

A. Bunkley's Executors.

October 28th
Rough Decree, ~~April 12~~ 1901

To be entered

Robert R. Munn

Order Book 6, page 248.

Frank. M. Powell

N 3 In The Circuit Court of The County of De Kalb, Ga.
J. B. Wright. John O. Parker and D. Walter Chapman
Executors of a Bankrupt's estate.

By consent of parties, ~~entered~~
~~of~~ in open court, and entered of
record. it is ordered that this suit be
~~made a vacation cause, to be further~~
~~proceed within vacation, with leave to~~
~~either party to take depositions, submitted~~
to the judge of this
court for such decision
and decree therein, in
vacation, or might
be made in term. —

Frank M. Powell
to J. Du Chay
A Bunker's Exs

Rough Decree
Oct 23^d 1899
To be entered -
Robert R. Dentis

Frank M.Powell.

Versus. In the Circuit Court of Isle of Wight County.

A.Bunkley's Executors.

The undersigned R.E.Boykin,Special Commissioner under the decree herein of Oct 22d 1900,reports to court that in obedience to the said decree he has executed and delivered to the said Frank M.Powell a good and sufficient deed in fee simple, with special warranty,for the tract of land in the bill and proceedings of said suit mentioned of which a parol gift thereof was made by the said A.Bunkley,in his life time,and prior to May 1st 1888,to the said Frank M.Powell.

All of which is respectfully submitted.

R. E. Boykin
Special Commissioner.

Frank M. Powell.

Vs. In Chancery.

A. Bunkley's Executors.

Comissioner Boykin's Report

Filed

Frank M. Powell.

vs.

A. Bunkley's Executors.:

:
:
: In the Circuit Court of Isle of Wight County.
:
:

This cause came on this day to be heard on the complainants bill, taken for confessed as to the defendants they still failing to appear, plead, answer or demur, and upon the depositions of witnesses, and was argued by counsel, whereupon it appearing to the court that A. Bunkley in his life time and prior to the 1st. day of May, 1888, made a parol gift to Frank M. Powell of the lot or parcel of land in the complainants bill mentioned, situate, lying and being on the east side of Smiths Neck Road, in the county of Isle of Wight, and state of Virginia, bounded by the said road, the avenue leading to the land formerly owned by John T. Bunkley, now owned by William Martin and the land owned known as Mackingham, in which Mrs. James J. Driver has an estate for life, being a part of the late John T. Bunkley farm, and containing by estimation four acres be the same more or less, and it appearing to the Court that the said Frank M. Powell by virtue of said parol gift of the said land took possession thereof, and induced by the said parol gift made valuable improvements thereon; the Court doth adjudge, order and decree that the said parol gift of the said land be specifically performed. And that R. E. Boykin, who is hereby appointed a special commissioner for the purpose, do execute and deliver to the said Frank M. Powell a good and sufficient deed in fee simple, with S p e c i a l W a r r a n t y, for the lot or parcel of land aforesaid, and make report to court of his proceedings under this decree.

~~And the Court doth adjudge, order and decree that the executors of the said A. Bunkley do pay the cost of the suit.~~

Frank M. Powell.

Versus

A. Burkley's Executors.

Rough Decree Oct 22d 1900.

To be entered.

Robert R. Huntis

Frank M. Powell.

Vs. In the Circuit Court of the County of Isle of Wight.

T.B. Wright, J.C. Parker and J. Walter Chapman, Excs A. Bunkley, decd

This cause came on this day to be heard on the plaintiffs bill, taken for confessed as to the defendants upon whom process has been duly served, they still failing to appear, plead, answer or demur, and upon the depositions of witness and was argued by counsel; on consideration whereof the court ~~being~~ ⁱⁿ of the opinion that the agreement on the part of the said A. Bunkley, in his life time, to ~~execute and deliver~~ ^{give} to the said Frank M. Powell ~~a deed for~~ the tract of land in the bill and proceedings of this suit mentioned ~~and execute and deliver to him a deed therefor~~ ^{and to execute and deliver to him a deed therefor} has been established by the testimony of witnesses, and ~~the promise and agreement of the said A. Bunkley was made~~ ^{upon a mere oral consideration and that} it further appearing to the court that, the said Frank M. Powell by virtue of the said agreement, and in consequence thereof, has taken possession of the said land and erected thereon valuable buildings, the court doth adjudge, order and decree that the said agreement of the said A. Bunkley to ~~execute and deliver to the~~ ^{give} said Frank M. Powell ~~a deed for~~ the said land be specifically performed. And the court, for the purpose of carrying into effect this decree, doth adjudge, order and decree that, R.E. Boykin, who is hereby appointed a commissioner for that purpose, as such commissioner, execute and deliver to the said Frank M. Powell, a good and sufficient deed in fee simple, with special warranty, in the place and stead of the said A. Bunkley, for that certain tract or parcel of land, in the bill and proceedings of this suit mentioned, situate, lying and being in Smith's Neck, in the County of Isle of Wight, in the State of Virginia, containing by estimation Three (3) acres, be the same more or less, and bounded by the lands known as Macclesfield, the lane or

avenue leading to ^{the} John T. Bunkley farm, now owned by ^{the} -----
-----, and the Smith's Neck road, being the same
land which is now in the possession of and occupied by the
said Frank M. Powell, and being originally a part of the old
John Bunkley land. And the said Commissioner shall make re-
port to court of his proceedings under this decree. And it is
ordered that the said defendat^s, as executors aforesaid, do pay
the costs of this suit.

Frank M. Powell.

Vs. In Chancery.

A. Bunkley's Excs.

Rough Decree. April 24-1900.

To be entered.

Frank. M. Powell

pp

A. Buxley Esq

Plaintiffs
Expositions

From Geo. R. Atkinson
Comer in chey

Clerk's office of the Circuit
Court of the District of Columbia
April 9th 1888 these expositions came
to hand properly read &c.

Wm. H. Young

John H. Young
Jr of Virginia

The depositions of Calvin C. Driver and others taken before me Geo. R. Atkinson, a Commissioner in Chancery for the Circuit Court, of the County of Isle of Wight, pursuant to the notice hereto annexed, at the office of R. E. Boykin, in the town of Smithfield, in the county aforesaid, on the 5th day of April 1900, between the hours of Nine O'Clock A.M. and Nine O'Clock P.M. of that day, to be read as evidence on behalf of Frank M. Powell, in a certain suit in equity depending in the Circuit Court of the County of Isle of Wight, wherein the said Frank M. Powell is plaintiff and Jno. C. Parker, T. B. Wright and J. W. Chapman Executors of A. Bunkley decd., are defendants.

Present, R. E. Boykin, Attorney for the Plaintiff.

Calvin C. Driver, a witness of lawful age having been first duly sworn deposes and says as follows, in answer to the following questions.

Q. 1. State your age, residence and occupation.

Ans. Age 48. Reside in Isle of Wight County, in Smiths Neck, am a farmer.

Ques. 2. State whether or not you are acquainted with Frank M. Bunkley and were you acquainted with A. Bunkley.

Ans. I have known both of them all my life.

Ques. 3. What relation was there between the parties.

Ans. Frank M. Powell is the nephew of A. Bunkley.

Ques. 4. Is the said A. Bunkley now living.

A. He died in Decr 27th 1898.

Q 5. State whether or not you ever heard any conversation between the said A. Bunkley and Frank M. Powell relative to a piece of land in Smiths Neck, in said County, If so when and where was such conversation was had and under what circumstances, and what, if anything

was said by A. Bunkley in reference to the said land.

~~Ans.~~ Ans. Mr Bunkley and Frank Powell came to my house in the fall of 1887, and they said they were going over to designate a piece of land which, he, Mr Bunkley had given Frank, I don't remember whether they asked me to go with them or not, but I went with them around the piece of land. ~~The land commenced~~

The land which Mr Bunkley designated as that which he gave Frank is, a three cornered piece of land, bounded by the Maccingham land the avenue leading to the John T. Bunkley place, and the Smith Neck road. It was a part of the old John Bunkley place belonging to the said A. Bunkley. Mr Bunkley stepped it and we judged it as between three and four acres. When we got through stepping it, Mr A. Bunkley said, Frank this is the piece of land I give you, and I will give you a clear deed for it any time you desire it.

This land lies in Smith's Neck in the County of Isle of Wight,

and is very near the land upon which I live, *and is cut off by the Smith's Neck road from the other part of the old John Bunkley place.*

Ques. 6. Has Frank M. Powell taken possession of the said land, if so when..

A. He took possession of it and went to work on it in a few days, ~~and went to work on it.~~

Ques. 7. What improvements of any have been made upon the said land and by whom.

Ans. Frank M. Powell has made considerable improvements upon the said land, commenced to make them so soon as he took possession of it. The improvements consist of a dwelling house, Kitchen, stable and barn, smoke house. and store-house, In which store-house Frank Powell conducts a mercantile business.

Ques. 8. What would it cost to put said improvements upon the land.

Ans. I should say they ^{would} cost some \$1500.00, or \$2000.00.

Ques 8. Had there been any negotiations between you and Frank Powell looking to the purchase of a piece of land from you upon which to erect a house, and if so were such negotiations broken off after Mr Bunkley gave Frank Powell the piece of land you mention. And, Ther^e had been such negotiations before Mr Bunkley gave him the land, and they were broken off after he gave this piece of land to Frank Powell.

Ques 9. State whether Frank M. Powell has been in continuous possession and occupancy of the said land up to the present time.

Ans. He has from the time it was given him by Mr Bunkley.

Ques 10. How long after the land was given Powell was it before he commenced to build upon and improve it.

Ans. He at once, in a week or so, commenced to improve it, clear it and the like, and the same fall commenced to build his house, Indeed he had a portion of the lumber cut which he had expected to use to build a house on the piece of land which he was taking off buying from me before Mr Bunkley gave him the piece of land mentioned.

Ques 11. Ques. Was the piece of land, which you say Mr Bunkly gave to Frank Powell, cleared.

Ans. It was in woods and uncleared.

Ans. About what was a fair value of the land so give Frank Bunkley at that time and its then condition.

Ans. Certainly not over \$10.00 per acre,

And further this deponent sayeth not.

C. C. Driver

Moss Martin a witness of lawful age having been first duly sworn deposes and says in answer to the following questions.

Ques.1. State your age residence and occupation.

Ans.48 years of age,residence Isle of Wight county,farmer and oyster planter.

Ques.2. Are you acquainted with Frank M.Powell,and were you acquainted with A.Bunkly.

Ans. I am, and was.

Ques.3. State whether or not you are acquainted with the piece of land upon which Frank M.Powell now resides,and where is it located.

Ans. I am,in Smiths Neck,this County,adjoins the John T.Bunkley Avenue,and Smiths Neck road,in the corner of the tow.

Ques.4. State whether or not the Sons of Temperance have erected a Hall upon the said land or a portion thereof,and if so about when erected,and by whose consent,and the term under which erected.

Ans. The Sons of Temperance built a Hall upon a part of the said land,this was done after Frank M.Powell came into possession of the said land,and after he built upon it. It was placed upon the land by the consent of Frank Powell. The terms were that it was to belong to the Sons of Temperance so long as it remained a Temperance Hall,with the privilege of removal if it ceased to be so used.

Ques.5. Did the Sons of Temperance ever offer to buy the land upon which the Hall stood if so state from whom,and what was said.

Ans. Some time after building the Hall the Sons of Temperance thought they had better buy the land on which the Hall stood. A committee was appointed to ^{wait} ~~wiat~~ on Frank Powell. he declined to ^{To sell,} ~~sell~~.

but said the bargain made could stand. Thinking that Mr Bunk-
 ley could influence Frank Powell ^{To see} I saw him about the purchase of
 the land, ^{and asked him to see Powell about it.} He told me that he had nothing to do with it ;he had
 given it to Frank, ~~and he had used his own money to improve the~~
~~property~~, and he could do as he please, ^{about it,} but he would see him as
 he could get a good price for it. Our conversation then ended.
 Sometime afterwards I saw him, and ^{he} ~~has~~ told me he had seen Frank
 but he would not sell.

Ques.6. About when did this conversation take place, about how
 long before the death of A.Bunkley.

Ans. About a year before the death of Mr Bunkley.

And further this deponent sayeth not.

Moss Martin

Smithfield, Isle of Wight County, to wit.

I, Geo. R. Atkinson, a Commissioner in Chancery for the
 Circuit Court for the County aforesaid, in the State of Virginia,
 do hereby certify that, the foregoing depositions of C.C. Driver
 and Moss Martin, were duly taken, sworn to and subscribed before
 me, at the time and place, and for the purposes therein mentioned.
 Given under my hand this 5th day of April 1900.

James Emory H. H. H.
Jan 13, 1900

Geo R Atkinson
 Commissioner in Chancery.

Frank M. Powell.

Vs. IN Chancery.

A. Bunkley's Executors.

Plaintiffs Depositions.

To T.B.Wright, Jno.C.Parker and J.Walter Chapman, Executors of A.
Bunkley deceased.

You are hereby notified, that on the 5th day of April 1900
at the office of R.E.Boykin, in the town of Smithfield, in the
County of Isle of Wight, between the hours of Nine O'Clock A.M and
Nine O'Clock P.M. of that day, I shall proceed to take the deposi-
tions of Calvin C.Driver and others, to be read as evidence in my
behalf, in a certain suit in chancery, depending in the Circuit
Court of the County of Isle of Wight, wherein I am plaintiff and
you are defendant; and if from any cause the taking of the said
depositions be not commenced, or if commenced be not concluded on
that day, the taking thereof will be adjourned from day to day, or
from time to time, at the same place and between the same house,
until the same shall be completed.

March 14-1900.

of this notice.
We acknowledge receipt of this notice of

notice to take depositions.

Frank M. Poiree
By Boykin & Lee
Attys.

A. Bunkley, a Executor

as in Chancery

Frank M. Bower

Frank M. Powell.

Vs. In Chancery.

A. Bunkley's Executors.

Notice to take Depositions.

We acknowledge legal service of
of this notice.

Thos B. Wright
T. C. Parker
J. Wallin Chapman
Attorneys of A. Bunkley

March 14-1900.

until the same shall be completed.

from time to time, at the same place and between the same house,
that day, the taking thereof will be adjourned from day to day, or
depositions be not commenced, or, if commenced be not concluded on
you are defendant; and it from any cause the taking of the said
Court of the County of Isle of Wight, wherein I am plaintiff, and
reply, in a certain suit in chancery, depending in the Circuit
towns of Captain C. Driver and others, to be read as evidence in my
nine o'clock P.M. of that day, I shall proceed to take the deposi-
County of Isle of Wight, between the hours of nine o'clock A.M. and
at the office of R. F. Boykin, in the town of Smithfield, in the
You are hereby notified that on the 24th day of April 1900
Bunkley deceased.

To T. B. Wright, T. C. Parker and J. Wallin Chapman, Executors of A.

The Commonwealth of Virginia,

To the *Sheriff* of the *County* of *Isle of Wight*, Greeting:

WE COMMAND YOU, that you summon *John C. Parker, J. B. Wright*
and J. Walter Chapman executors of *A. Brinkley*
decd.

to appear at the Clerk's office of the *Circuit* Court of the *County* of *Isle of Wight*
at the rules to be held for the said Court, on the *3^d* Monday in *September* 1899,
to answer a bill in chancery, exhibited against *them* in our said Court ~~for~~
by Frank M. Powell

And have then there this writ. Witness, *N. F. Young*, Clerk of our said
Court, at the court-house, the *15th* day of *September* 1899, and in the
1244 year of the Commonwealth.

N. F. Young *cc.*

Executed by delivering to the within
named J. B. Wright & J. Walter Chapman
each a true copy of the within sum-
mons. Sept 16th 1899.

Ro. A. Edwards
Suff.

Form No. 300.

Frank M. Parcell

vs. {
SUBPOENA
IN
CHANCERY.

Bunkley's exr.

Baylun p. q.

To 28 September Rules,

Exempt Court.

The Commonwealth of Virginia,

To the Sheriff of the County of Loudoun, Greeting:

WE COMMAND YOU, that you summon John C. Parker T.B.
Wright and J. Walter Chapman
executors of A. Buckley deceased

to appear at the Clerk's office of the Circuit Court of the County of Loudoun
at the rules to be held for the said Court, on the 9th Monday in September 1899,
to answer a bill in chancery, exhibited against them in our said Court for
by Frank M. Powell

And have then there this writ. Witness, N. F. Young, Clerk of our said
Court, at the court-house, the 15th day of September 1899, and in the
12th year of the Commonwealth.

N. F. Young
A. J. Young
A copy Test A. J. Young

Frank M. Powell

vs.

}

SUBPOENA
IN
CHANCERY.

Bankley and Tots

Brigham

p. q.

To

2^d Sept

Rules,

Circuit

Court.

I hereby acknowledge
service of the within
notice of summons
Sept: 16th 1899.

J. C. Parker, Executor
of A. Bankley.

Frank. M. Powell
By course.

Boykin & Lile p. 9

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P.M. P. 1899.

7. 12. 1899

A. B. 1899. B. 1899. M.

Oct. 1899. B. 1899.

2^d Sept rules 1899
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Oct. 23^d 1899. maturation
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