

1919-022
Nansemond Co (Suffolk) Chancery Causes: Turner Darden vs Otelia Jackson, asgn et al

Luke, Whitfield

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

March 28th, 1919.

Mr. G. E. Bunting, Clerk,
City.

Dear Mr. Bunting:-

IN RE: TURNER DARDEN VS. OTELIA
JACKSON, ASSIGNEE OF WM. H. JACKSON,
ASSIGNEE OF I. A. LUKE:

I herewith enclose you memorandum
for the above-styled chancery suit. The defendant,
Otelia Jackson, lives at or near Elwood, Nansemond
County, Virginia. Please have process served before
the first April Rules. Otelia Jackson is the only
defendant in the case and she is the only one to be
served with process.

I also herewith enclose you my
check for \$7.50 to cover the writ tax and deposit in
this suit.

Yours very truly,

HLH:B

Enc. 2.

Hugh L. Holland

Turner Darden.....Complainant.

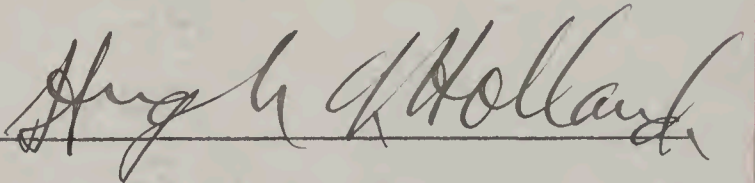
vs. Memorandum.

Otelia Jackson, Assignee of William
H. Jackson, Assignee of I.A.
Luke.....

Defendant.

To the Clerk of the Circuit Court of
Nansemond County, Virginia:

Please summon defendant for complainant to
First April (1919) Rules, in Chancery.



p. q.

Marsh 31, 1919. Process issued returnable to April Rules, First
Monday, 1919.

TURNER DARDEN...COMPLAINANT.

VS. MEMORANDUM.

OTELIA JACKSON, ASSIGNEE OF
WILLIAM H. JACKSON, AS-
SIGNEE OF I. A. LUKE.....

DEFENDANT..

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

CHANCERY SUMMONS

The Commonwealth of Virginia.

TO THE SHERIFF OF NANSEMOND COUNTY---GREETING:

You are Hereby Commanded to Summon Otelia Jackson, Assignee of
William H. Jackson, Assignee of I. A. Luke.

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held
for the said Court, on the First Monday in, April, 1919 to answer a
Bill in Chancery, exhibited against her
in the said Court by Turner Darden.

And have then and there this summons.

Witness. G. E. Bunting, Clerk of our said Court, at his office, this 31st day of
March, 1919, in the 43rd year of the Commonwealth.

A Copy--Teste:

Clerk

Teste:

Clerk

Executed this 7 day of April, 1917 by delivering a true copy of the with-
in process to Otelia Jackson

in person, in the County of Nansemond, State of Virginia.

E. E. Wagner
Sheriff

Hugh L. Holland p. q.

Turner Darden

vs. } In Chancery

Otelia Jackson, Assignee of
William H. Jackson, Assignee
of I. A. Luke.

1919

April Rules

First Monday.

NANSEMOND COUNTY COURT,

Process Book, No. 3

Page

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

May 13th, 1919.

Mr. G. E. Bunting; Clerk,
City.

Dear Mr. Bunting:-

IN RE: OTELIA JACKSON, ASSIGNEE
OF WM. H. JACKSON, ASSIGNEE OF
I. A. LUKE:

This case was settled by compromise
and dismissed by order entered May 12th, 1919. In instituting
this suit I paid \$7.50 to cover the writ tax and deposit. Please
let me have a statement of the cost and check for refund if
there is anything due back to me. If there is any further cost
due you let me know and I will send you my check to cover. No
taxed attorney's is to be charged in this suit.

I merely wanted to write you about this
matter while I had it in mind and I will thank you to let it
have your attention when you are able. There is nothing pres-
sing about this matter, but I merely wanted to close my files
on this subject as soon as I can straighten out the cost.

Yours very truly,

Hugh L. Holland

HLH:B

*Cost refunded \$1.90
May 14, 1919*

In the Circuit Court of Nansemond County,
Virginia:

TURNER DARDEN.....COMPLAINANT.

VS.

OTELIA JACKSON, ASSIGNEE OF WIL-
LIAM H. JACKSON, ASSIGNEE OF I.
A. LUKE.....DEFENDANT.

On motion of the complainant, Turner Darden,
it appearing to the Court that the matters in controversy
in this suit have been settled between the parties, it
is ordered that this suit be dismissed at the cost of the
complainant; and it appearing that there is nothing further
to be done in this suit it is ordered to be stricken
from the docket.

Chancy Order book
No. 5, Pg 304

We consent to
this
being 4 a Holland
attly for complainant
~~McKee~~ Reishally p
dprdst

Enter. May 2. 1919.

Jas L McKinnis

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

TURNER DARDEN.....COMPLAINANT	)	
VS.	)	
OTELIA JACKSON, ASSIGNEE OF	)	ANSWER
WILLIAM H. JACKSON, ASSIGNEE	)	
OF I. A. LUKE.....DEFENDANT	)	

The answer of Otelia Jackson to a bill in chancery exhibited against her in the Circuit Court of Nansemond County.

For answer to the said bill the said defendant, by her attorney, comes and says that the said supposed cause of action in the bill mentioned did not accrue to the said plaintiff at any time within five years next before the commencement of this suit in manner and form as the said plaintiff has above complained against her, and this she is ready to verify, without waiving the benefit of the above plea or defense but especially insisting on the same, and without waiving the benefit of any just exceptions which may be had or taken to the many errors and uncertainties in the bill of complaint.

For answer to the said bill the said defendant further answers and says: It may be true that the two judgments mentioned in the bill were rendered and docketed on the days and at the times stated, and by the Justice of the Peace named; that they were rendered in favor of I. A. Luke against Turner Darden on the notes or instruments described in the bill; that the said judgments were afterwards assigned by said I. A. Luke to W. H. Jackson, and by W. H. Jackson

assigned to this defendant. She further says that the two said judgments represented just and honest debts due by said Turner Darden, and that he should be compelled to pay same. She further says that the said Turner Darden has not come in this court of equity with clean hands; that he has demanded relief from a just debt which he honestly owes, which he has never paid, and which he refuses to pay; that as he here "seeks equity," your defendant prays that he may be compelled "to do equity."

This defendant further says that the two said judgments are valid and binding; there were two notes; two separate actions were brought on them, and either one of the actions taken single and alone showed on its face proper matters for the jurisdiction of the court trying the case; the defendant was duly summoned and could have entered a plea to the jurisdiction and asked that the action or warrant abate. He failed to file such plea either before the justice or on appeal to the Circuit Court as he could have done, and having failed to file such plea, he can not now be heard to make defense that the justice was without jurisdiction.

This defendant further says that if the court should hold that the two said judgments are not valid and binding for the reason set forth in said bill, then your defendant prays that as the court has assumed jurisdiction of this cause at the special instance of the plaintiff and now has cognizance of the entire subject matter, it may go on to do complete justice between the parties and the defendant hereby prays that this court will now render judgment on the two notes or instruments on which the two said judgments above mentioned are founded against said Turner Darden in favor of this defendant, and that the said judgment may be docketed in the Judgment Lien

to your defendant for value received.

This defendant further says that the two said instruments on which said judgments were rendered represented just and honest debts, which the said Turner Darden owed to I. A. Luke for full value received, and that no part of same has ever been paid.

This defendant further says that she came into possession of said judgments under the following circumstances, to wit: That on the 1st day of August, 1910, Mattie Darden and Turner Darden sold and conveyed to her by deed, with General Warranty and the usual covenants of title, a certain lot or parcel of land situated at Elwood, in Nansemond County, Virginia, for the consideration of TWO HUNDRED AND TWENTY-FIVE DOLLARS (\$225.00), which she paid; that her said deed for said lot was recorded in the Clerk's Office of this county on the 20th day of August, 1910, in Deed Book 70, page 99. She further says that at the time of the purchase of said lot from Turner Darden the said Turner Darden assured her that the title to said lot was clear and good; that there were no encumbrances on same, while at that very time the two said judgments were rendered and docketed against the said Turner Darden; that the said Turner Darden well knew this fact, but suppressed the same and wilfully and fraudulently misrepresented the title to this defendant for the sole purpose of effecting the sale of the said lot to her; that after her said deed for said lot had been received and recorded the said I. A. Luke called her attention to the said judgments and demanded payment thereof; that in order to clear the title to her said lot W. H. Jackson, her son, purchased the said two judgments from I. A. Luke for value received and took the assignment of the said I. A. Luke to himself for said judgments and he assigned them for value

Docket of the Circuit Court of this County.

And now having fully answered, this defendant prays to be hence dismissed with her reasonable costs by her in this behalf expended.

And your defendant will ever pray, etc.

Sign here

Otelia Jackson

STATE OF VIRGINIA,

To wit:

City of Suffolk,

I, R. H. Rawles, a Notary Public for the city aforesaid, in the State of Virginia, do certify that Otelia Jackson, whose name is signed to the foregoing answer, has this day personally appeared before me in my said city, and, being duly sworn, made oath that the statements contained in said answer, so far as coming of her own knowledge, are true, and that all other statements therein contained as coming from knowledge or information derived from others, she believes to be true.

Given under my hand this 7th day of April, 1919.

Notary Public.

My term of office expires on the 21st day of January, 1923.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY,
VIRGINIA:

TURNER DARDEN.....COMPLAINANT.

VS. BILL.....

OTELIA JACKSON, ASSIGNEE OF
WILLIAM H. JACKSON, ASSIGNEE
OF I. A. LUKE.....DEFENDANT.

To the Honorable Circuit Court
of Nansemond County:

Your complainant, Turner Darden, respectfully represents:

(1) That he is seized and possessed of the following tract of land, described as follows:

" All that certain piece or parcel of land in Holy Neck Magisterial District, in Nansemond County, Virginia, containing Sixty (60) acres, more or less, bounded and described as follows: On the South by the land belonging to the estate of James A. Duke, deceased; on the West by the County Road leading to South Quay; on the North by the land of Thomas L. Butler; and on the East by the lands of Mills H. Holland. This is the same property that was conveyed to Turner Darden by S. P. Whitfield and Pocahontas Whitfield, his wife, by their deed dated May 23rd, 1917, and recorded on May 28th, 1918, in Deed Book number 86, page 306, in the Clerk's Office of the Circuit Court of the County of Nansemond, State of Virginia."

(2) That there are docketed against your complainant, Turner Darden two certain judgments as follows:

FIRST: a certain judgment in favor of I. A. Luke against Turner Darden for Eighty (\$80.00) Dollars with interest thereon from the 18th day of March, 1910 till paid and One (\$1.95) Dollar and ninety-five cents cost, upon an instrument waiving the homestead, said judgment being dated March 9th, 1910, and being docketed on April 8th, 1910, in Judgment Docket number 3, page 148, in the Clerk's Office of the Circuit Court of the County of Nansemond, State of Vir-

ginia, said judgment being given by E. Joyner, justice of the peace. SECOND: a certain judgment in favor of I. A. Luke against Turner Darden for Eighty-one (\$81.00) Dollars, with interest thereon from the 18th day of March, 1908 till paid and One (\$1.95) Dollar and ninety-five cents cost, upon an instrument waiving the homestead, said judgment being dated March 9th, 1910, and being docketed on April 8th, 1910, in the Clerk's Office of the Circuit Court of the County of Nansemond, State of Virginia, said judgment being given by E. Joyner, a justice of the peace, and being docketed in Judgment Docket number 3, page 148, in said clerk's office. Both of said judgment were assigned to William H. Jackson by I. A. Luke on April 20th, 1914; and both judgments were assigned to Otelia Jackson by William H. Jackson on August 1st, 1918; and,

(3) As above-shown both of these said judgments for Eighty (\$80.00) Dollars and Eighty-one (\$81.00) Dollars respectively were given on the same day at the same time, abstracts of both of which said judgments being herewith filed, marked " EXHIBITS - A AND B" respectively and prayed to be read as a part of this bill. Both of said notes , the principal of which aggregate One Hundred Sixty-one (\$161.00) Dollars, bear the same date, namely the _____ day of _____ 19 _____, were given at the same time and as evidences of one and the same debt, both of them represent one and the same debt; the said justice of the peace, E. Joyner, on the date of the rendering of the said judgment, March 9th, 1910, was without jurisdiction;

the amount of the debt being in excess of One Hundred (\$100.00) Dollars, which was the limit of the jurisdiction of the justice of the peace at that time, the division of the said debt in two notes and the rendering of two separate judgments, one on each note at the same time was frauden legis; and therefore both of said judgments were then and still are absolutely void as having been rendered without jurisdiction; and,

(4) The said judgments, as long as they remain in the said clerk's office without being released, marked satisfied in full or declared to be null and void by a court of competent jurisdiction, ~~they~~ constitute a cloud upon the title of the said real estate of your complainant, Turner Darden, and any other real estate that he may own and also on any and all personal property that he may own; On account of the said cloud upon the title of the said real estate your complainant cannot sell and convey his said real estate without being compelled to pay and satisfy said illegal and void judgments:

In consideration whereof, and for as much as your complainant is remedless in the premises save in a court of equity, your complainant prays that the said Otelia Jackson, Assignee of William H. Jackson, Assignee of I. A. Luke may be made a party defendant to this bill, and required but not on oath to answer the same, the oath being hereby waived; that both of said judgments ^d be determined and declared to be null and void and of no effect; that the clerk of this court be directed and required to note on the judgment docket at the place these judgments

are docketed that the same are released by order of this court; and that your complainant may have all such other and further and general relief in the premises as the nature of his case may require or to equity shall seem meet.

Turner Sander
by Counsel.

COMPLAINANT.

Hugh J. Holland,

COUNSEL.

TURNER DARDEN.....
COMPLAINANT.

VS. BILL.....

OTELIA JACKSON, ASSIGNEE
OF WILLIAM H. JACKSON,
ASSIGNEE OF I. A. LUKE.....
DEFENDANT.

*Filed April 8th,
1919*

Ruby W. Benton R.S.

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Depart 10.30

Hugh R. Holland, Jr.

Turner & Gordon

18.

Olivia Jackson, Assignee
of H. H. Jackson, Assignee
of E. C. Ricks.

Good Deeds

Oct 5 1880

1889