

Dallam County Circuit Court
Case File - Civil

November 1868

Reppy, Samuel A.
Thomas, John L.
vs
Mathews, Thomas

Set aside deed

80 acres in S16 T41 N3E conveyed
by Robert Mathews to defendant
to defraud creditors

Box 22 Folder 34

John S. Thomas and
Samuel A. Reppy Plaintiffs

Against
Thomas Mathews Defendant

In the Jefferson
Co Circuit Court.

Nov. Term 1868.

Plaintiffs state that on the 11th day of October 1855 one Robert Mathews was the owner of the following real estate situated in Jefferson County Missouri, viz: Lots three and four in Section sixteen, Township forty one Range three East containing eighty acres that at the date aforesaid the said Robert Mathews was largely indebted to sundry persons so much so that he was insolvent: that he conceived the design of defrauding his ~~creditors~~ those to whom he was then indebted as well as those to whom he might become indebted in the future and for the purpose of carrying out such fraudulent design and for the purpose of hindering and delaying his existing creditors as well as his future creditors in the collection of their debts against ^{him} and of placing his property beyond the reach of his then & future creditors and at the same time have the secret trust

thereof himself he voluntarily and without any good or valuable consideration conveyed said land to Thomas Mathews, the above named Defendant by deed dated the 11th day of October 1853.

Plaintiffs state that since the said conveyance by said Robert Mathews to said Thomas Mathews of said land as aforesaid the said Robert Mathews has continued in the possession of said land occupying it as his own and has made valuable improvements thereon in houses, barns & stables, fences and clearing worth four thousand dollars and paid for the same out of his own money, the Defendant furnishing no part of the money for such improvements.

Plaintiffs further state that on the 17th day of May 1867 Samuel A. Reppy recovered judgment against said Robert Mathews for the sum of three hundred and seventy five dollars, upon which judgment an alias execution was issued against the lands & improvements, goods & chattels of the said Robert ^{Mathews} dated March 19th 1868 directed to the Sheriff of Jefferson County Missouri by virtue of which execution the said Sheriff levied upon and seized all the right and title and interest of the said Robert Mathews in and to said land and after giving the notice required

by law sold the same on the 15th day of May 1868 at the Court house door in said County to the highest Samuel A. Reppy and John L. Thomas, they being the highest and last bidders therefor and that the Sheriff of said County did on the 15th day of May 1868 execute and deliver to said Reppy & Thomas, Plaintiffs herein a deed conveying to them all the right title and interest which the said Robert Mathews had in and to said land at the date of said sale. Which deed is hereto the Court shown.

Plaintiffs therefore ~~ask the Court for the~~ reasons set forth are that they are the owners of said land by virtue of said Sheriff's deed. That the deed made by Robert Mathews to Thomas Mathews dated Oct 11th 1865 was fraudulent as against Creditors as it was made with the intent on the part of Robert Mathews and accepted by Thomas Mathews to hinder and delay the Creditors of the said Robert Mathews in the collection of their demands against him.

Plaintiffs therefore pray the Court for the reasons set forth in this petition to set aside the said deed made by the said Robert Mathews to said Thomas Mathews ~~de~~ for said land, dated October 11

1865- and to vest the title to said land in the
Plaintiff and for other proper relief.

Thomas & Reppy.

Pro Se.

To Thomas Mathews Esq.

You are hereby notified that we will present to the Jefferson Circuit Court at its November for 1868 to be held at Hillsboro in Jefferson County Missouri on the 16th day of November ^{4 on the 1st day of the term} 1868, a petition in our names against you, a copy of which is hereto attached and made a part of this notice.

I Hamilton Mahan do solemnly swear that I served the above notice on Thomas Mathews in the City of Cincinnati, State of Ohio on the 19th day of October 1868 by delivering to him a true copy of said notice and accompanying petition.
(Sign here)

H. Mahan Deputy Sheriff

State of Ohio }
County of Hamilton } ss.

me D. W. Stuckland

Personally appeared before
a Notary Public
within and for the State and County of said

Hamilton Wharman who being my

dear and the above return is true &

In testimony whereof I have hereunto
set my hand and affixed my
Notarial Seal this 19th day of Octo-
ber. 1868.

A. W. Strickland

Notary Public for Hamilton Co. N. Y.



Shells paid \$1.05

paid by J. D. Thomas

Thomas & Kipp

27

P Thomas Mathews

Served October, 19"

26 Mahan Duff
10 miles

Petition to set aside

and -

(Original)

Filed Nov 20 1868
C. J. Honey, Clk

John L. Thomas } In the Circuit
vs } Court of Jefferson
Thomas Mathews } County Missouri

Now at this day comes the Defendant Thomas Mathews and for answer to the Petition of Plaintiff in this Cause admits that Robert Mathews was the owner of the Real Estate described in said Petition in the fall of 1855 and that said Robert about the time stated executed & delivered to Defendant a deed for the same, Defendant denies that said Robert was at the time of such conveyance largely indebted to sundry persons so much so as to be insolvent as to the allegation in Plaintiffs Petition that said Robert Mathews conceived the design of defrauding those to whom he was indebted as well as those to whom he might become indebted in the future, Defendant denies that said Robert made said conveyance with a design of defrauding any creditors existing at the time of such conveyance as to the allegation that said

Robert Meathews conceived the design of defrauding those to whom he might become indebted in the future this Defendant avers that he has not now and had not at the time of receiving such conveyance any knowledge or information sufficient to form a belief as to whether said Robert ever conceived such design or not, but says that if said Robert ever conceived such design it was & is wholly unknown to this Defendant, Defendant denies that said Robert Meathews ~~for the~~ in pursuance of any design conceived by him before the execution of said conveyance of said Land to this Defendant or at any other time conveyed said property to this Defendant for the purpose or with the intention of placing his property ~~be~~ beyond the reach either of his then or future creditors, and denies that at the time of such conveyance by said Robert to this Defendant that it was either agreed or understood or intended or designed either by said Robert Meathews or this Defendant that said Robert should have the

Secret use of said Real Estate him-
-self and Defendant Denies that said
Conveyance from said Robert
Matthews to this Defendant was
made without any good or valuable
Consideration but on the Contrary
avers that said Conveyance was
made in good faith and upon a
Sufficient and valuable Considerati-
-on as stated in said Deed of Convey-
-ance from said Robert to this Defend-
-ant dated Oct. 11th 1855,

Defendant Denies that said Robert
after such Conveyance continued to
occupy said Land as his own, and
Denies that he has made valuable
improvements thereon in houses, Barns,
Stables, and fences and clearing of the
value of four thousand dollars, or any
other value, & denies that said Robert
paid for such improvement or any of
them out of his own money, the Defend-
ant ~~furnishing a part of the money~~
~~furnished~~ Denies the allegation of the
Plaintiff to the effect that Defend-
-ant furnished no part of the money
for the improvements made on
said Land and avers that no improv-
-ments of much value were

were made on their portion of the Land conveyed to Defendant by said Robert Mathews described in Plaintiff's Petition, and Defendant avers that this allegation in said Petition is wholly gratuitous being only matter of argument introduced by Plaintiff into his Pleadings,

Defendant avers that he has no knowledge or information sufficient to form a belief as to whether Samuel A. Kippy recovered judgment against Robert Mathews as stated or not, but denies that any valid or legal alias Execution was issued on such judgment ^{against} the Lands and Tenements, Goods and chattels of said Robert Mathews dated March 19th 1868 directed to the Sheriff of Jefferson County Missouri and Defendant denies that by virtue of any such Execution said Sheriff ever levied upon or seized all the right and title ^{of Robert Mathews} and interest in and to said Land, and denies that said Robert Mathews had or owned any right or title or interest in or to said Land or any part thereof either legal or equitable that could be seized by said Sheriff or levied on by virtue of any process of Execution

Defendant utterly denies that the ~~Sheriff~~
Sheriff of said County of Jefferson sold said
Land in pursuance of the notice required
by Law or otherwise on the 15th day of May
1868 at the Court House door in said County
to Samuel A. Beppy & John L. Thomas
under or by virtue of any valid or legal
Execution and Denies that said Land
was sold on said 15th day of May 1868 by
said Sheriff or at any other time to said
Beppy & Thomas ^{as the property of said Robert Matthews} under or by virtue of
any Execution that was in force and
effect as a valid subsisting Execution
~~on the said 15th day of May 1868 or at any time~~
~~when any such writ was in any time~~
~~when such writ was in effect by said~~
~~Sheriff or any other person~~ Defendant
admits that the Sheriff of said County
of Jefferson did on the 15th day of May
1868 or about that time execute and deliver
to said Samuel A. Beppy & John L. Thomas
an instrument of writing purporting to be
a Sheriffs Deed for the Land described
in their original Petition in this Cause,
but Defendant avers that the ~~Execution~~
Execution under which said Sheriff
attempted to sell said Land bearing date
about the 19th of March 1868 was not
levied by the Sheriff on said Land ~~and~~

as the Property of said Robert or upon any other property otherwise than by Endorsement on the back of said Execution made by said Sheriff that he levied it on the said Land, which Endorsement was not signed by said Sheriff until after the 15th of May 1868 and that said Execution was return-
=able at the first Term of the Court

after the issuance thereof and at the same Term at which said Sheriff pretended to sell said Land thereunder to said Keppy & Thomas as aforesaid, that is to say said Sheriff pretended to sell said Real Estate under said Execution to said Keppy & Thomas & Knocked the same off to them thereunder on the 15th day of May 1868 when in truth and in fact said Execution was according to the Tenor and Command thereof returnable on the 14th day of May 1868, and might have been executed and returned by said Sheriff according to its Tenor and Command,

Defendant denies that Plaintiff by reason of said Sheriff's Deed is the owner of said Land so attempted to be sold & as described in his Petition

Defendant denies that the Deed

made by Robert Mathews to Thomas Mathews dated Oct. 11th 1855 was fraudulent as against creditors and denies that it was made by said Robert or accepted by said Thomas to hinder and delay the creditors of said Robert Mathews in the collection of their demands against him,

Defendant denies that ~~Plaintiff~~ Plaintiff is entitled to a Decree of this Court setting aside his Deed from said Robert and avers that ~~Plaintiff's~~ ~~cause of action~~ ~~if any~~ the Statute of Limitations is a Bar to the relief prayed by Plaintiff as is shown by the allegations of his said Petition.

Defendant ~~in consequence of the premises prays the Court to by suitable~~ avers that since the 15th of May 1868 this Plaintiff has received from Samuel A. Reppy a Deed for the Land described in Plaintiffs Petition & that by reason thereof and the Sheriffs Deed aforesaid Plaintiff is asserting title to said Land and has had such Deeds recorded with a view of placing a cloud upon Defendants title

and in Consideration of the
Premises Defendant prays the
Court by a proper Decree to
set aside said Sheriffs Deed ~~as also~~
to said Reppy & Thomas as also
said Deed from said Reppy to
said Thomas

and to render Judgment
for Defendant for costs

Jos. J. Williams
Atty. for Defendant

John L. Thomas
vs

Thomas Matthews

Answer of
Defendant

Filed March 29 1869

Elias F. Henry clerk

By L. H. Clifford Depy

Williams
for Defendant

John L. Thomas } In the Circuit
vs } Court of Jefferson
Thomas Mathews } County Missouri

Now at this day comes the Defendant
in his proper person and states
that ~~he merely believes~~ the inhabitants
of the County of Jefferson in which
this Cause is now pending are
prejudiced against this Defendant
and that the opposite party,
viz, the Plaintiff has an
undue influence over the
inhabitation of said County of
Jefferson, — and said Defendant
further states that knowledge of
said ~~Change~~ Causes for Change
of venue and such facts as herein
above stated first came to the
knowledge of this Defendant after
the filing of his answer in this
Cause to the petition of the
Plaintiff herein that is to say
knowledge of such facts to wit
such Causes of Change of venue
as hereinabove set forth first
came to the knowledge of this
Defendant Since the filing of
his answer to the merits of
this action and since the adjourn-
ment of the Last regular Term
of said Circuit Court of said
County of Jefferson and since the
commencement of this present

Term of said Circuit Court
~~which said Term began~~
held on the 11th day of May 1869
& Defendant prays the Court to award him a Change
of venue to some County, where such causes of Change of venue
do not exist,

Thomas W. Mathews
Thomas Mathews Defendant on
his oath says that, the above
and foregoing Petition, and the
matters and allegations as
therein stated are true, and
that he has just cause to
believe that he can not have
a fair Trial of said Cause
in said County of Jefferson
where the same is now
pending on account of the
causes in the foregoing
Petition alleged & further
sayeth not,

Sworn to and
subscribed before } Thomas W. Mathews
me this 12th day
of May 1869
Elias P. H. H. H. H. H.
By S. H. H. H. H. H.

~~Question Did Mrs. Fletcher appear to be in her
right mind~~

John L. Thomas
ma
Thomas Mathews
Refrain Exchange
of revenue

Black May 12 1869
Elias J. H. Denny etc
By J. H. Denny etc