

Jefferson County Circuit Court
Case Files - Civil
May 1869, No. 276

Box

Q3 Folder 82

Kynah, Michael P.

vs

Bruce, Thomas R

Breach of warranty

Defendant failed to warrant
Lot 3, Block 8 in Victoria sold
to plaintiff; \$325 damages

M. P. Linnick

Thomas R. Bruce

In the Circuit
Court of Jefferson
County, Missouri

Plaintiff States that Defendant
did on the day of
1866 execute under his hand
and seal a deed of conveyance for
the following described Real
Estate situate in Jefferson
County, Missouri viz for
Cn. 3 in Block No. 8 in the
Town of Victoria that by
the terms of said deed the
Defendant covenanted with
Plaintiff that Defendant was
seized of an indefeasible
estate of inheritance in said
Land and did also covenant
with Plaintiff that he Defen-
dant would forever warrant
and defend the title of said
Land to Plaintiff against the
claims of all persons whom-
soever and that in consideration
of such deed of conveyance and
of the covenants contained
therein as aforesaid Plaintiff
paid Defendant for said Land

The sum of
Dollars but Plaintiff avers
that the covenants in said
Deed were broken as soon as made
by Defendant in this that at
that time Defendant made such
Deed of conveyance to Plaintiff
there was unknown to Plaintiff
a Deed of Trust duly made and
Recorded in the Records Office of
said County which was a Lien
in full force on said Land for
the sum of one hundred and sixty-
six dollars dated the day of
186 the notes

which were secured thereby drawing
ten per cent interest from the date
of said Deed of Trust on such
whole amount of one hundred and
sixty six dollars due and payable
payable to one Charles Dwyer
which fact of the existence of said
Deed of Trust Defendant concealed
from Plaintiff & Plaintiff avers that
he ~~did~~ has since said conveyance
from Defendant to him been
compelled to pay off said Deed
of Trust amounting to the sum

of Three hundred & Twenty five Dollars
and in Consideration of the
premises Plaintiff prays
Judgment against Defendant
for such last-named sum of
money from the date of payment
of the same by Plaintiff with
interest at the rate of Ten per cent.

Jos. J. Williams
Atty. for Plaintiff

Mr. P. Linch
Esq
J. R. Bruce

Filed March. 16 1869
Elias W. Honey clk

THE STATE OF MISSOURI, }
COUNTY OF JEFFERSON. } ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon

Thomas R Bruce

if he be found in your County, that
he be and appear before the Hon. Judge of our Circuit Court, on the
first day of the next term thereof, to be begun and held at the town of Hillsboro,
within and for the County of Jefferson, on the ~~fourth~~ Monday after the
fourth Monday of March, ~~next~~ then and there to answer unto
Michael P Lynch,

upon ~~his~~ original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this
~~fourteenth~~ day of March, A.D. 1869

Elias F Honey
By L H Alfred D Co
Clerk Circuit Court.

The within was served by leaving a true copy here of a writ of the
Petitioners received from the Clerk of the office of Jefferson County and with it
deposited and Thomas R. Brown ~~the~~ on the 16th day of March
A D 1869 at Jefferson County Mo
Fees 1.00

Toed Dunbar
per Obed B. Lamm

Deputy

2972
No. 276

TO

JEFFERSON CIRCUIT COURT.

May Term, 1869
M. P. Lynch.
vs summons
Thos R Bruce

Original

M. P. Lynch, Plaintiff
v
J. R. Bruce, Defendant } In the Jefferson
Circuit Court.

Now at this day comes said Defendant and for answer to the petition of the Plaintiff admits that he recited to Plaintiff a deed to the land described in said petition about the time stated. but he denies that the covenants contained in said were broken as soon as made on account of any mortgage or deed of trust sitting on said land at the date of said deed. Defendant admits that on the 26th day of October 1859 one Wm. W. Watkins the former owner of said land executed and delivered to Charles Vineyard a deed of trust concerning said lot of land which contained the following condition. Whereas the said William W. Watkins on the twenty sixth of October 1859 made executed and delivered to the said Charles Vineyard his promissory note in words and figures following to wit: "Twelve months after date I promise to pay to Charles ^{Vineyard} the sum of sixty six dollars for value received, October the 26th 1859" And whereas the said Charles Vineyard has become securing on a certain promissory note recited by the said William W. Watkins

and in favor of John Shop for one hundred
dollars twelve months after date. bearing
ten per cent interest dated the 29th day of
September 1859. Now if the said William
W. Watkins, his ~~he~~ executors or administrators
shall pay the sum of money specified
in said note and all the interest that may
be due thereon according to the tenor
and effect ~~thereof~~ of the said note so as to release
the said Charles Vineyard as security on
said note, then this conveyance shall be
void. And Defendant over, that
said Watkins did pay the note to said John
Shop when the same became due, together
with the interest thereon according to the
tenor and effect thereof so that the said
Charles Vineyard was released as security
on said note. Defendant over, that
said Charles Vineyard never paid
said note to said Shop & he had no right
to demand payment of either Plaintiff
or Defendant until he had done so.
Defendant over, that although the note
for sixty six dollars mentioned in said
deed of trust was not a lien on said
land by the terms of the above recited
Condition, yet the said Watkins fully paid
off to the said Vineyard the whole amount

thereof with interest when the same become due.

Defendant denies that he concealed from Plaintiff at the time he made said deed ~~that the existence of said deed of trust~~ but as the same was on record Plaintiff could have ascertained the amount thereof by a mere examination.

Defendant denies that Plaintiff has paid the amount specified in said deed of trust to C. Vineyard or any other person whatever, but he charges that this whole claim of Plaintiff is fraudulent and is put forward by him to get from Defendant money that is not justly due which fact is well known to the Plaintiff who is a son-in-law of said Vineyard.

Defendant further states that if even the Plaintiff had any cause of action on said covenants contained in his said deed such right has long since been barred by the statute of limitations, it being more than five years since said ^{pretended} right accrued.

Howard Thomas

Atty for Defendant.

M. P. Lynch

J. R. Bruce

Answer.

Filed Oct 12 "1869
Elias P. Honeycutt