

Jefferson County Circuit Court
Case Files - CIVIL
May 1874 - No. 39

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Green, Silas R. et al

vs

Vinyard, Thomas J.

Set aside Trustee
Sale & Deed

Lot #5 435 Block #1 in
the Town of Victoria;
Defendant accused of
fraud in the sale of

the property.

Other plaintiffs: Green, Martin;

Clarissa and Patrick Dugan;

Martha and W. T. Tolbert;

Silas M. Green; Cecelia Green;

William Green;

- 1 Martin Green
 - 2 Clarissa Dugan &
Patrick Dugan
Her Husband,
 - 3 Martha Tolbert &
W. J. Tolbert Her Husband,
 - 4 Silas M. Green,
 - 5 Cecelia Green
 - 6 William Green &
 - 7 Silas R. Green, Plaintiffs
- Against
Thomas J. Vinyard, Defendant

In the Circuit Court
of Jefferson County Missouri

Plaintiffs state that Charles G. Green being the owner in fee simple of Lots Nos. Four and Five in Block No. one in the Town of Victoria Jefferson County Missouri on the 23rd day of April 1872 executed and delivered a deed of trust upon the same by which he conveyed said Real Estate to Louis J. Rankin as Trustee in Trust to secure to C. C. Fletcher the payment of a promissory note in said deed of trust described for the sum of one Hundred and Fifteen Dollars payable one year from the date of said deed of trust

Plaintiff further states that about
the first of January 1873 said Charles
G. Green departed this life intestate
without any issue in being or wife and
left surviving him the Plaintiffs
Martin Green a brother, Clarissa
Dugan a sister intermarried with
Patrick Dugan, Martha Tolbert
a sister intermarried with W. J. Tolbert
Silas M. Green a Brother, Cecelia
Green a sister, William Green a brother
& Silas R. Green his father, to whom
said Real Estate descended subject to
the payment of said Deed of Trust,

Plaintiffs further state
that on the 22nd day of December
1873 said Note secured by said Deed
of Trust above described remaining
unpaid said C. C. Fletcher who still
held the same caused said Real
Estate to be sold under said Deed of
Trust by said Trustee Louis J. Rankin
at public auction or vendue at the
Court House Door in Hillsboro in
said County of Jefferson on that
day in execution of a power of
Sale vested in said Trustee by the
Terms of said Deed of Trust it
containing a provision for the sale of

✓ The same by said Trustee at public vendue
for cash at the Court House Door of
said County upon notice as specified in
✓ said Deed of Trust, in case of default
in the payment of said note by the maker
✓ thereof, And plaintiffs aver that at
said pretended sale so made by said Trustee
said Real Estate was stricken off to the
Defendant by said Trustee who in his
capacity as such Trustee executed and
delivered to Defendant a Deed purporting
to convey to him said Real Estate
bearing date on the day of said sale viz,
the 22nd day of December 1873 but
the plaintiffs state that said pretended
sale and Deed from said Louis J.
Ramirez, ^{Trustee} to said Defendant were
fraudulent and void for the plaintiffs
aver that the Defendant procured said
Real Estate to be struck off to him at the sale
thereof by said Trustee as the purchaser
thereof and thereby and by reason thereof
procured said Trustee to execute to him
a Deed therefor through fraud, trick,
✓ device and imposture the object of which
was to procure said property at an
under value and in fraud of the rights of
said Charles G. Green's Estate of the rights of
these plaintiffs therein for plaintiffs state
Defendant on the day of said sale and prior

to said sale at Hillsboro in said County of
 Jefferson was desirous of becoming the
 purchaser of said property at the sale then
 and there about to be made by said Trustee
 under said Deed of Trust and was
 further aware from conversation with
 C. C. Fletcher the holder of the Deed of Trust
 and Note secured thereby that he said
 Fletcher intended to bid upon said Real
 Estate at the sale thereof under said
 Deed of Trust then about to be made
 a sum sufficient to pay said Note
 so secured by said Deed of Trust
 together with all interest ^{in addition thereto} ~~thereon together~~
 and ~~with~~ the Costs of the sale and also, all
 debts then allowed in the probate Court
 against the Estate of said Charles G.
 Green together with costs of Administration
 then amounting to one Hundred and
 Fifty Dollars or about that over and
 above said Note secured by said
 Deed of Trust, and amounting in the
 aggregate to about Two Hundred and
 Eighty four Dollars,

Said C. C. Fletcher at the time informing Defendant that he intended to bid that sum upon said Real Estate in order to secure himself in the payment of an allowance which he held against the Estate of said Charles G. Green ~~in the~~ ^{by} made by the Probate Court which was not secured to him of some Twenty ^{Eight} Dollars and which he would lose in whole or in part unless the Land then about being sold brought enough over the Debt of Trust to pay all the debts of said Estate and costs of Administration as the personal Estate in the hands of the Administrator of said Estate then under Administration in said County of Jefferson was not sufficient by a large amount to pay the debts of said Estate & costs of Administration, and Plaintiffs aver that thereupon with the specific design and intent to practice a fraud upon the Creditors of the Estate of said Charles G. Green in general and these Plaintiffs the distributees and Heirs of said Charles G. Green in particular the Defendants in order to procure said C. C. Fletcher not to bid against him on said Real Estate at said Trustees Sale thereof then about to be made offered to said C. C.

Fletcher and proposed ^{to} him that he the
 Defendant would bid a sufficient sum
 upon said Real Estate at the sale thereof
 then about to be made by said Trustee
 to pay the note held by said Fletcher and
 secured by said Deed of Trust together
 with the interest thereon and costs of sale
 and in addition thereto that he would buy
 the allowance made by the Probate Court
 against the Estate of said Charles G. Green
 and held as before stated by said Fletcher
 and that in consideration of his, the
 Defendant's, buying said allowance from
 said Fletcher that he said Fletcher should
 not bid any greater sum than that
 secured to him by said Deed of Trust
 and the cost of making the sale by the Trustee
 but that he should run the property up
 to just that amount and then desist
 from further bidding and let it be
 bought in by Defendant, and Plaintiff's
 aver that said Fletcher agreed then and
 there to said proposition so made by the
 Defendant and then and there, to wit, at
 Hillsboro the place of sale and immediately
 before the Trustee aforesaid offered said
 Real Estate for sale under said Deed of Trust
 did sell to Defendant his said allowance
 against said Estate of Charles G. Green and did

✓ in Consideration of the purchase of it by Defendant agreed with him not to bid against him at the sale of said Real Estate under said Deed of Trust then about to be made as before stated to any greater sum than the amount of the note secured thereby and costs of sale by the Trustee but that he would voluntarily allow Defendants to buy said Land at that sum, and Plaintiffs aver that upon the concluding of said agreement between said Defendants and said Fletcher said Fletcher caused said Trustee to offer said Land for sale and made one bid thereon himself of ~~one Hundred and Forty five or Fifty Dollars~~ a sum sufficient as he supposed to cover the debt secured by the Deed of Trust and costs of sale whereupon he ceased bidding as by his Contract with defendants he had agreed to do when & whereupon the Defendant made a bid of a few dollars more than said Fletcher had bid that is to say Defendants bid the sum of one Hundred and Fifty five Dollars at which sum for the want of other bidders the said Real Estate was struck off to him by said Trustee and a Deed executed to him therefor as before stated, Plaintiffs aver that said Real Estate at the time

of said pretended sale was well worth four times the amount which it was struck off to Defendant for by said Trustee at said pretended and fraudulent sale that is to say it was worth the sum of at least Six Hundred and Twenty Dollars and but for the fraudulent, Collusive, and ~~uncon~~ iniquitous contrivances, tricks and devices resorted to by the Defendant to procure the same at said sale for a price greatly below its value as before stated would have brought at said sale a much greater sum than that at which Defendant bid it in for plaintiffs aver that said C. C. Fletcher but for said fraudulent Conduct of Defendant by which he was induced not to bid on said Land to a greater extent than said Deed of Trust as before stated would have bid thereon a sum greatly in advance of that at which it was struck off & pretended to be sold to Defendant, and in Consideration of the premises plaintiffs pray the Court to ~~Decree~~ Decree that said sale made as aforesaid by said Trustee by which he purported to sell said Real Estate to Defendant and also the Deed made by him of as such

Trustee dated December 22nd 1873 purporting
to convey said Real Estate to Defendants be
set aside vacated and annulled, that
the Defendants be forever divested of
all right, Title and claim of in and to said
Land, that the ^{said sale & deed} ~~same~~ be declared Fraudulent
and void and that the Plaintiffs as the
Heirs at ~~at~~ Law of said Charles G. Green
be invested with the Legal and
Equitable title to said premises
and that the Court will grant
other proper relief,

Silas D. Green
for himself & as agent for
the other Plaintiffs
Martin Green
Carrissa Dugan, Patrick Dugan
Martha Tolbert, Wm. J. Tolbert,
Silas M. Green, Cecelia Green
William Green Plaintiffs
By Silas D. Green
their agent.
Williams Attorney
for Plaintiffs

Silas W. Green
(Et al,

vs

Thos. J. Viyand

Action to set aside
Trustees Sale
of Deed

Original

Filed April 22 1874

W. S. Boyce clk

By A. H. Ho. Attorney at Law

Clerk please issue
process in this case
April 18th 1874

Silas W. Green

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

The State of Missouri,

TO THE SHERIFF OF THE COUNTY OF JEFFERSON---GREETING:

We command you, that you summon *Thomas Vinyard*

if he be found in your County, that he be and appear before the Honorable 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 *second* Monday after the ~~fourth~~ Monday of *May* next, then and there to answer unto *Martin Green, Clarissa Suggan Patrick, Suggan Martha Tolbert W. F. Tolbert, Silas M. Green, Cecelia Green, William Green & Silas R. Green*

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

Witness, W. S. BOYCE, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro this *22nd* day of *April* A. D. 18*74*

W. S. Boyce Clerk Circuit Court.

By *C. Ho. Morris* Deputy.

I executed the within summons at the
County of Jefferson State of Missouri
on the within name dependant Thos. I
Linyard by delivering to him a true
copy of the original writ and petition
on the 25th day of April 1874

J. D. Mobbs Sheriff
By J. A. Williams Deft

33-333

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

May TERM, 1874.

Silas R Green
et al

vs

Thomas J Linyard

(original)

Sheriff fees \$1.00

rec April 25

Martin Green
and others, Plaintiffs

vs
Thomas J. Vineyard
Defendant

In the Jefferson Circuit Court.

Now comes said Defendant
and for answer to the petition of
the Plaintiffs states that he admits
that Charles G. Green executed
a deed of trust on the property
described in said petition at
the time and for the sum speci-
fied in said petition and ^{James} Charles
~~C. Rankin~~ sold said property at
the time and place and for
the sum alleged in said petition
and that ~~said~~ at said sale defend-
ant became the purchaser but
he denies that he and ^{James} Charles
said Rankin to him for said
land was fraudulent and void
or that Defendant procured said
real estate to be trucked off and
sold to him or procured said
Rankin as surety to execute
and to him for said land through
fraud, trick, device, or imposition

the object of which was to obtain said property at an under value and in fraud of the rights of said Charles G. Green's estate or of these plaintiffs. He denies that on the day of sale and before said sale or afterwards he was aware from conversations with C. C. Fletcher the holder of said deed of trust that he said Fletcher intended to bid upon said land a sum sufficient to pay the note secured by said deed of trust with the interest thereon and also all debts then allowed against said Estate together with costs of administration then amounting to one hundred and fifty dollars over and above said deed of trust. He denies that C. C. Fletcher informed him at the time of sale or at any time that he intended to bid enough to pay the said \$150 and costs of administration together with the amount due on his deed of trust making in the aggregate about \$284, in order that he might secure himself in the payment of an allowance he said Fletcher held against said Estate unsecured amounting to about

#28 and which he would lose unless
said property brought enough to
pay said deed of trust of trust and
the amount of advances against
said estate together with cost of
administration. He desires that
he thereupon with the specific design
and intent to practice fraud
upon the creditors of said Charles
G. Green in general or then plain-
tiffs in particular in order to prevent
said C. C. Fletcher not to bid against
Defendant on said real estate at said
sale, offered to said C. C. Fletcher
and proposed to him that Defendant
would bid a sufficient sum upon
said real estate to pay the note held
by said Fletcher and secondly said
deed of trust together with interest
thereon and costs of sale and in ad-
dition thereto that he would buy the
allowance made by the Probate
Court of said County in favor of
said Fletcher against said estate
and in consideration of which said
Fletcher should not bid on said
land or that said Fletcher should
own said property up to just that

amount and then assist in
bidding and then let it be bought
in by Defendant. He denies that
said Fletcher then and then agreed
to said proposition so presented to
have been made by Defendant
or that said Fletcher did then
and there before said sale take
place or at any time did give
his said allowance to Defendant
and in consideration of the purchase
of it agreed with Defendant not to
bid against Defendant at said
sale to any greater amount than
sum sufficient to secure said
note and costs of sale and would
voluntarily allow Defendant to buy
said property at that sum. He
admits that said Fletcher made
one bid on said land and that
Defendant bid a higher sum
and the same was struck off
to him but he denies that said Fletcher
claimed to be by reason of any pre-
tended contract alleged to have
been made between said Fletcher
and this Defendant but because
he was not willing to give a greater sum

than Defendant bid.

Defendant denies that at the time said sale said land was well worth four times the amount for which it was struck off to Defendant or that it was worth \$620 or any greater sum than Defendant paid for it. He denies that but for the fraudulent, collusion and ingenuous continuance, tricks and devices alleged falsely to have been resorted to by Plaintiff, to procure, as is alleged, said real estate at said sale for a sum greatly below its value, said land would have brought a much greater sum than Defendant bid for it. He denies that said Plaintiff would have bid any greater sum than he did if it had not been for said pretended fraudulent conduct of Defendant by which he was induced not to bid or that he was by any conduct of Defendant induced not to bid on said land a greater sum than he did or a sum greater than that at which it was bid by Defendant.

Defendant owns that said sale

was a fair one and he did nothing
by word or act to depress bidding or
deter bidders from attending said sale
or bidding. There is no threat or that any thing
that he did or said had any such
effect.

Defendant denies that Plaintiff
are entitled to the relief prayed for
in said petition or to any relief.

John L. Thomas & Co
Attys for Defendant.

L. R. Carter, Green Chapel

vs

Thomas Vinyard

Answer

Filed Aug. 13th 1874

W. S. Boyce

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