

NO 8

M O N T G O M E R Y E Q U I T Y

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MRS. L E N A M. R A G S D A L E, E T A L S.

-VS-

L. A. R A G S D A L E, E T A L .

Consolidated.

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BURNEY & GHOLSON) Sols.

LEECH & SAVAGE.) Compts.

.....oOo.....

T. L. YANCEY)

) Sols. Respts.

W. M. DANIEL)

Filed Dec. 1, 1894.

A. V. Goodpasture, Clk

R. D. Moseley)	- E Q U I T Y -
vs.)	
L. A. Ragsdale.)	DECEMBER TERM, 1894
Mrs. Lena M. Ragsdale)	In The Supreme Court Of Tennessee.
vs.)	
L. A. Ragsdale.)	ON APPEAL
Farmers & Merchants Bank)	From The Chancery Court of Mont-
vs.)	gomery County, Tennessee.
L. & Ragsdale.)	
T. L. Yancey)	- CONSOLIDATED CAUSES. -
vs.)	
L. A. Ragsdale.)	

These cases were consolidated and heard together for the purpose of determining the priorities of the parties in the distribution of a fund in the Chancery Court of Montgomery County, Tennessee, at Clarksville, in the hands of Q. C. Atkinson, Clerk & Master and Receiver, and by consent of all parties the following is a statement of all the facts pertinent to the questions for adjudication.

On the 4th day of September, 1893, R. D. Moseley recovered a judgment in the Circuit Court of Montgomery County, Tenn., against defendant L. A. Ragsdale for the sum of (interest included) \$1759.16, and the costs of the cause. On the 11th day of September, 1893, the following record was entered in the Register's Office of Montgomery County, Tenn.

R. D. Moseley)	
vs.)	
L. A. Ragsdale.))	Copy of Judgment.

STATE OF TENNESSEE, MONTGOMERY COUNTY: BE IT REMEMBERED

that at a regular term of the Circuit Court, begun and held for said county at the Court-house in the town of Clarksville, on Monday Sept. 4, 1893, it being the first Monday in Sept. 1893, and it being also the time fixed by law for holding the said court for the said county, when the Honorable A. H. Munford, Judge, etc., being present and presiding, the following proceedings were had and entered of record, to wit:

Entry on the Minutes Sept. 4, 1893.

STATE OF TENNESSEE, MONTGOMERY COUNTY:

R. D. Moseley)	
)	
vs.)	Note.
)	
L. A. Ragsdale.))	

Came the parties by attorneys, and the case was heard by the Court without the intervention of a jury, when upon hearing the evidence, and argument of counsel, the Court is of opinion that the plaintiff is entitled to a verdict in this case in the sum of \$1592.00 principal, and the sum of \$167.16 interest on same from December, 5, 1891; wherefore it is considered by the Court that plaintiff recover of defendant the sum of \$1759.16 principal, the interest and the costs of this case, for which execution may issue.

STATE OF TENNESSEE, MONTGOMERY COUNTY: I, F. D. Daniel, Clerk of the Circuit Court for said County, do hereby certify the foregoing to be a true and perfect copy of the judgment of the Court in the above styled cause, as the same appears of rec rd in my office in Clarksville, Tenn. Witness my hand and the seal of the Circuit Court of the said County, this September 11, 1893.

F. D. Daniel, Clerk.

STATE OF TENNESSEE, MONTGOMERY COUNTY: A. H. Munford, Judge of the 10th Judicial Circuit of the State of Tennessee, Montgomery County constituting a part of said Circuit, do certify that the foregoing attestation of F. D. Daniel, Clerk of the Circuit Court of said County, to be in due form of law.

Witness my hand and seal, this the 11th day of September, 1893

A. H. Munford, Judge of the Tenth Judicial Circuit of the State of Tennessee.

On the 28th day of October, 1893, R. D. Moseley filed a bill in the Chancery Court of Montgomery County, Tenn., asking that certain mortgages executed by Ragsdale to various parties be foreclosed by decree of the Chancery Court, and that the lien obtained by him by virtue of his judgment and the registration above mentioned upon the equitable interest of said Ragsdale in the mortgage property, be enforced as to the surplus resulting from the sale of the mortgage property after satisfying the mortgage creditors, and that the mortgages be foreclosed.

At the October term, 1893, of the Chancery Court of Montgomery County, Tenn., Mrs. Lena M. Ragsdale recovered a judgment against L. A. Ragsdale for the sum of \$26000.00 and on the 21st day of October, 1893, she caused to be registered in the Register's Office of Montgomery County, Tenn., a memorandum of said judgment, in words and figures, as follows, to wit:

Lena M. Ragsdale)
)

vs.

)Memorandum--Copy--Judgment
)

L. A. Ragsdale et al.

Memorandum of judgment rendered by the Chancery Court at Clarksville, Tenn., in favor of Lena M. Ragsdale vs. L. A. Ragsdale, is as follows: Judgment rendered by said Court Octo.13, 1893, in above styled cause, in favor of complainant Mrs. Lena M. Ragsdale against defendant L. A. Ragsdale for \$26420.80, and the costs of said case for which execution may issue. Entered upon record in the Minute Book, No. 19, pages 325 and 326 inclusive.

" STATE OF TENNESSEE, MONTGOMERY COUNTY: I, Q. C. Atkinson, Jr., Clerk & Master for the Chancery Court in and for said County and State aforesaid, hereby certify that the above is a true and correct memorandum of the judgment rendered by said Court at the October term, 1893, in favor of Mrs. Lena M. Ragsdale against L. A. Ragsdale, as appears of record in my office, and on the minutes of said court in Minute Book No.19, pages 325 and 326 inclusive. Given under my hand and official seal, October, 21, 1893."

"Q. C. Atkinson, Jr. Clerk & Master"

Complainant Mrs. Lena M. Ragsdale on the 29th day of November, 1893, filed her bill in the Chancery Court of Montgomery County, Tenn., asking substantially the same relief prayed for in the bill of R. D. Moseley against L. A. Ragsdale above mentioned.

At the October term, 1893, the Farmers & Merchants National Bank obtained a judgment in the Chancery Court of Montgomery County for the sum of \$2710.50, and the memorandum of said judgment was rehistored in the office of the register of Montgomery County, Tenn.. on the 24th th day of November, 1893, and is in words and figures as follows, to wit:-

" Farmers & Merchants National Bank)
)
 vs.) In the Chancery Court at
)
 L. A. Ragsdale.) Clarksville.

Farmers & Merchants National Bank against L. A. Ragsdale.

In this case a judgment was rendered on the 5th day of October, 1893, in favor of the complainant against the defendant for \$2710.50 in the Chancery Court of Montgomery County, Tennessee."

"Registered November 24, 1893. (Signed J. M. Rogers, R. M. C)"

Complainant, Farmers & Merchants National Bank on the 18th of December 1893, filed a bill in the Chancery Court of Montgomery County, Tennessee, asking substantially the same relief as prayed for in the bill of R. D. Moseley against L. A. Ragsdale.

On Nov. 23, 1893, Complainant T. L. Yancey, filed an attachment bill in the Chancery Court of Montgomery County, Tenn., against defendant L. A. Ragsdale, in which he seeks to subject the equitable interest in the property mortgaged to the payment of a debt due to the said Yancey, and at the April Term, 1894, obtained a judgment against Defendant Ragsdale for his debt.

On the 24th day of November, 1893, L. A. Ragsdale executed to Smith & Dickinson and Wm. J. Daniel, a mortgage which was on the 25th day of November, 1893, registered in Trust Dd Book No. 42, page 218, by which the said Ragsdale

conveys in trust to the parties named, a certain lot of horses and other property from the sale of ~~the~~ ^{which} property under a ^{prior} mortgage of Ragsdale to Alexander, the money now in the hands of the Clerk & Master was realized.

R. D. Moseley, Mrs. Lena M. Ragsdale and Farmers & Merchants National Bank, claim that by reason of their judgments against L. A. Ragsdale, and the registration of the memorandum above mentioned in the Register's Office of Montgomery County, Tenn., and their Bills to enforce their liens thus obtained, they obtain priorities as against complainant Thos. L. Yancey and defendants Smith & Dickinson and Wm. Daniel, they being made defendants to the bill of T. L. Yancey against L. A. Ragsdale etals, and the Bill of Farmers & Merchants National Bank against L. A. Ragsdale etals.

Complainant T. L. Yancey and Smith & Dickinson and Wm. Daniel insist: That Complainants R. D. Moseley, Lena M. Ragsdale and Farmers & Merchants National Bank obtained no priorities, by reason of the registration of the papers claimed to be memorandums of the judgments, because said memorandums are not in due form, and were not properly acknowledged before being put to record in the Register's Office, and that therefore, they, by reason of the judgment of T. L. Yancey, and his attachment Bill, by which he seeks to subject the surplus, after paying the Alexander mortgage debt; and the mortgage of Ragsdale to Smith & Dickinson & Daniel, on Nov. 24, 1893, are entitled to priorities as against the judgments above mentioned.

These consolidated causes were by consent heard upon motion to settle the priorities of the parties, before the Honorable J. S. Gribble, Chancellor, on the 15th day of October, 1894, and his decree is in words and figures as follows, to wit:-

STATE OF TENNESSEE:

Be it remembered that at a Chancery Court begun and held at the Court-house in Clarksville, Montgomery County, Tennessee, for said County and State, on the first Monday in October, 1894, the same being the first day of October, 1894, and the time fixed by law for holding said court, when present and presiding the Honorable J. S. Gribble, Chancellor, etc., the following proceedings were had to wit:-

D E C R E E.

These cases were heard by his Honor, J. S. Gribble, October, 15th, 1894, upon motion to determine and settle the priorities of the complainants to the fund in court, and the Court is of opinion and doth decree, that the memorandum of judgments recorded in the Register's Office of Montgomery County, Tenn., substantially comply with the requirements of the statute in such cases, and the priorities of the parties complainants in the above causes, and the defendants mortgagees and judgment creditors are governed thereby.

T. L. Yancey and Smith & Dickinson and Wm. Daniel, appear and apply to the next term of the Supreme Court at Nashville, which will be allowed upon the execution of a bond, and security for costs of appeal.

A P P E A L B O N D.

WE, Smith & Dickinson, Wm. Daniel and T. L. Yancey principals, and F. T. Daniel security, acknowledge ourselves indebted to Mrs. Lena M. Ragsdale etals, in the sum of \$500.00, to be void if the said Smith & Dickinson, Wm. Daniel and T. L. Yancey shall prosecute with effect an appeal to the next term of the Supreme Court of Tennessee, at Nashville, by them prayed from a decree against them, in favor of the said Mrs. Lena M. Ragsdale and others, in the Chancery Court at Clarksville on the 15th day of October, 1894, for the costs of suit; or in case of failure shall pay and satisfy the amount of said decree, and the damages and cost which may be adjudged against them in the premises by the Supreme Court.

This the 15th day of October, 1894.

T. L. Yancey

W. M. Daniel

Smith & Dickinson.

F. T. Daniel.

B I L L O F C O S T S.

Bill of Costs on motion of appeal.

C. C. Atkinson, C. & M.

Motion .25----	Decree .50.....	\$0.75
Transcript, 9 pages, \$4.05 ---	Appeal Bond .25--	Seal.50
		\$4.80
Bill of Costs .50, Copy B. C..025 --	Judgment for cost .25	\$1.00
Total.....		\$6.55

C E R T I F I C A T E T O R E C O R D .

I, Q. C. Atkinson, Clerk & Master of the Chancery Court at Clarksville, Tenn., do certify that the foregoing is a true, perfect, full and complete transcript of the agreed statement of facts, presented by the attorneys for complainant and defendant in the said above named consolidated causes, and the Bill of Costs incident to the appeal of said question.

Witness my hand and seal of said Court and office, at the Court-house in Clarksville, Tenn.

This the 28th day of November, 1894.

Q. C. Atkinson
Q. C. Atkinson.

C. & M.

- I N D E X .

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