

No. 12685

Supreme Court of Illinois

Newlan

vs.

Hanna

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Newlin

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1858

17685

United States of America } S. S.
State of Illinois Kane County }

Plas before the Honorable Isaac
S. Wilson Judge of the Ninth Judicial
Circuit and Presiding Judge of Kane
County Circuit Court in the State of Illinois
at a Term of said Court begun and held
at the Court House in Geneva in said County
on the Eighteenth day of January in
the year of our Lord One thousand Eight hundred and
fifty eight -

Present	The Hon Isaac S. Wilson	Judge
"	Edward S. Folsom	State att.
"	George E. Hermon	Sherriff

Attest,
Paul R. Knight
Clerk

It is remembered that heretofore to wit, on
the 4th day January A.D. 1858, a "Bill to Foreclose
Mortgage" was filed in the Clerk's office of our said
Circuit Court which is in the words & figures following to wit,
State of Illinois }
Kane County } To the Hon Isaac S. Wilson Judge

Your Orator Robert Hanna of the
City of Aurora, Kane County State of Illinois
shews unto the Court that on the 26th day of November
A.D. 1856 at Aurora in said Co. kindly made to your
orator two certain promissory notes of the date,

By one of which said notes the said Oris C. Hendz
promised to pay to the order of your orator fifteen
hundred dollars for value received one year after
date, and also one other promissory note by which
said Hendz promised to pay, to the order of your orator
one year after date, Three hundred dollars.

And the said Oris C. Hendz to secure the payment
of the principal and interest mentioned in said
notes, did at the same time execute under his hand
and seal, and also under the hand and seal of
Jennette Hendz his wife and deliver to your orator
a mortgage bearing even date with said notes, and
conditioned for the payment of the said Eighteen
hundred dollars, and the interest thereon, according
to the tenor and effect of said two notes, by which the
said Mortgagee mortgaged to your orator in fee,
certain land and real estate, a description of
which is embraced in a copy of said mortgage
hereto attached marked "A" which your orator
prays may be taken as a part of this his bill of complaint,
which said mortgage was duly acknowledged by said Hendz
and wife and duly Recorded in the Records office
of Kane County Illinois on 2^d day of December A.D. 1880
as by the said mortgage and certificate of acknowledgment
and of the Recording aforesaid indorsed thereon
and ready to be produced as this Court shall direct
will more fully appear. And your orator further
shows that the lands mentioned in said mortgage are
within the county of Kane and State of Illinois and
within the jurisdiction of this Court. And your
orator believes and States that the sum due and
sum of Eighteen hundred and Twelve dollars of
principal and interest due thereon remain due

and unpaid your orator on said notes, and that no proceedings at law have hitherto been had, to recover the debt secured by the said Bond and Mortgage or any part thereof; And your orator further states that in and by said Mortgage all attorneys fees for the foreclosure of said Mortgage were and are to be assessed by the court against the said Heindz, and that he has incurred and will incur in the foreclosure of the same the just and full sum of One Hundred Dollars. And your orator would further shew unto your honor, that said Mortgage is a scanty security for your orator's money secured to be paid by said Mortgage. And the said Amos C. Heindz absolutely refused to pay the same or any part thereof.

Your orator asks that the said Amos C. Heindz and Jennett Heindz may upon their several and respective corporal oaths, full, true direct and perfect answers make according to the best of their several and respective knowledge and belief, to all and singular the premises.

And that the said Amos C. Heindz and Jennett Heindz may disclose whether there is any other or further liens and incumbrances in and upon the said mortgaged premises, and whether the same is all or not, subsequent to the Mortgage of your orator, and that an account may be taken by and under the direction of this Honorable Court of what is due and owing your orator for principal interest and costs, on his said Mortgage, and that the said Amos C. Heindz and Jennett Heindz may be decreed to pay to your orator what may be found due to him on taking the said account, together with his costs of this suit by a short day to be appointed by this

Honorable Court, or in default thereof that the said
Oris C. Keinz and Jennett Keinz and all
persons claiming by through or under them and
each of them may be absolutely barred and
foreclosed of and from all right and equity of
Redemption in or to the said mortgaged premises
and every part thereof, and that they may be
decreed to deliver up to your orator all deeds,
papers or writings in his custody or power relating
to or concerning the said mortgaged premises or any
part thereof. And that your orator may
have such further relief and other Relief in the
premises as to your Honor may seem meet, and
the circumstances of the case may require.

May it please your Honor to grant unto your
orator the People writ of summons directed to the
said Oris C. Keinz and Jennett Keinz commanding
them to be and appear before this Honorable Court
on the first day of the next term thereof to be holden
at the Court House at Geneva on the 3^d Monday of
January A.D. 1858 and to stand to abide by and
perform such order, direction and decree as
shall be made in the premises &c

J. H. Bridley
J. H. Parker
Compl't Sol^r

Robert Hoanna

Schedule "A"

This indenture made this twenty sixth day
of November in the year of Our Lord One thousand
Eight hundred and fifty-six, Between Oris C.
Keinz and Jennett A. his wife Anrona in Same
County and State of Illinois party of the first part
and Robert Hoanna of the Same place party of

the second part. Whereas the said party of the first part is justly indebted to the said party of the second part in the sum of Eighteen hundred Dollars and payable as follows to wit, Secured to be paid by two promissory notes, bearing even date herewith, three hundred Dollars payable in one year from date, & fifteen hundred Dollars in one year from date, Now therefore this Indenture witnesseth that the said party of the first part for the better securing the payment of the money aforesaid, with interest thereon, according to the tenor and effect of the said notes above mentioned, And also in consideration of the further sum of one dollar to him in hand paid by the said party of the second part at the executing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained sold and conveyed, and by these presents do grant bargain sell and convey unto the said party of the second part his heirs and assigns forever, all that certain piece or parcel of land being in the county of Kane and State of Illinois and bounded as follows to wit, Commencing at the North West corner of the North East quarter of section twenty six, in Township thirty eight North, and Range seven East of the third principal meridian, Running thence North six chains (6) to the center of a highway, thence South sixty eight degrees East along said highway, to the eighth ($\frac{1}{8}$) corner, Thence South sixty chains (60) Thence West twenty chains (20) Thence North six chains (60) to the place of beginning, containing 126 acres to the same more or less.

To have and to hold the same, together with all and singular the liberties, hereditaments and

and appurtenances, thereto belonging or in any
wise appertaining, And also all the Estate, interest
and claim whatsoever in law as well as in equity which
the party of the first part has in and to the premises
hereby conveyed unto the party of the second part,
his heirs and assigns and to his only proper use benefit
and behoof. Provided always and these presents
are upon this express condition, That if the said party
of the first part, his heirs, executors ~~and~~ administrators
shall will and truly pay or cause to be paid, to the
said party of the second part, his heirs, executors
administrators or assigns the foregoing sum of money
with such interest thereon, at the time and in the
manner specified in the above mentioned notes,
according to the true intent and meaning thereof
that then and in that case these presents and every
thing herein expressed shall be absolutely null and
void, or otherwise remain in full force and effect.
Further, the party of the first part for his heirs, executors
and administrators do covenant and agree, to
and with the party of the second part his heirs,
executors and administrators that in case of
failure of the performance of the condition or
conditions above mentioned to be performed by the
party of the first part, either by himself or his heirs,
executors or administrators, that then the party of the
first part will pay or cause to be paid unto the said party
of the second part the attorneys fees for the foreclosure of this
said Mortgage, to be assessed by any court of Record
in which this said Mortgage may or shall be foreclosed
as part of the costs of such foreclosure, for which judgment
with the costs of court shall be rendered and satisfied
out of the above mortgage premises —

In witness whereof the said party of the first part, hereunto set their hands and seals the day and year first above written.

Signed Sealed and delivered in
the Presence of J. S. Leachett

Ervin C. Heindz
Jannet A. Heindz

State of Illinois

Kane County } J. S. Leachett of Aurora,

Notary Public in and for said county in the State aforesaid, do hereby certify that Ervin C. Heindz & wife are personally known to me as the real persons whose names are subscribed to the annexed mortgage, appeared before me this day in person and acknowledged that they executed and delivered the said mortgage as their free and voluntary act for the uses and purposes therein set forth. And the said Jannet A. wife of the said Ervin C. Heindz having been by me examined separately and apart from and out of the hearing of her husband and the contents and meaning of the said mortgage having been by me made known and fully explained to her she acknowledged that she had freely and voluntarily executed the same and relinquished her dower to the lands and tenements therein mentioned without compulsion of her said husband, and that she does not wish to retract the same.

Given under my hand and official seal
— day of November in the year of our Lord one
thousand eight hundred and fifty six

Attest Jan'y 4th 1858.

P. R. M. night clerk

John S. Leachett
Notary Public

And afterwards, to wit, on the day and year last
aforesaid, a summons was issued by the clerk of
said circuit court, under the seal thereof, which
is in the words & figures following to wit,

State of Illinois } ss. The People of the State of Illinois
Kane County } to the Sheriff of said County, greeting.

We command you that you summon Amos C. Leitz
and Jennett Leitz if they shall be found in your
County, personally to be and appear before the circuit
court of said County, on the first day of the next Term
thereof, to be holden at the Court House in Geneva
in said County on the third Monday of January
instant, to answer unto the bill of complaint of Robert
Heavin, filed in said Court on the Chancery side thereof
to foreclose a mortgage, And have you show and there
this writ, with an endorsement thereon in what manner
you shall have executed the same.

Witness Paul R. Knight clerk of our said
Court and the seal thereof at Geneva in
said County this 14th day of January A.D. 1858.
P. R. Knight

Filed Jan 7 1858.

P. R. Knight clerk

Copy of endorsement on said summons—

Personally served by reading to the within named
defendants, and leaving a true copy of the same
Jan 6th / 58.

Geo. E. Corwin Sheriff
By C. Pinney Sept 4

And afterwards to wit, on the 18th day of January AD 1858, it being one of the days of the Regular January Term of said court, the following proceedings were had in said court and entered of Record to wit:

Robert Kerans	} Bill to Foreclose Mortgage
v	
Amos C. Keindz Jennett Keindz	

This day comes the complainant by Parks his solicitor and on his motion it is ordered by the court that the defendants be ruled to answer herein by Wednesday Morning.

And afterwards, to wit on the 21st day of January AD 1858, it being as yet of said January Term of said court, the following further proceedings was had in said court and entered of Record, to wit:

Robert Kerans	} Bill to foreclose Mortgage
v	
Amos C. Keindz Jennett Keindz	

This day comes the complainant by Parks his Solicitor, and it appearing to the court that the said defendants have failed to comply with the Rule heretofore entered in this cause for an answer herein, it is therefore ordered on motion of the complainants Solicitor that the defendants be called, and the said defendants having been each three times solemnly called, come not nor any one for them but make default herein which order by the Court to be entered of Record, and that the said complainant Bill of Complaint and all the matters and things therein contained be taken as true and confessed against the said

defendants, for want of an answer herein.

It is further ordered by the court that this cause be referred to the Master to take Proofs.

And afterwards, writ on the 16th day of February in the year last aforesaid, the Report of the Master in Chancery was filed in said cause, which said Report is in the words of figures following to wit,

Robert Hanna	}	January Term A.D 1858
Arvis C. Hinds		Kane Co Cir Court
Jennett A Hinds	}	Jan 24 th 1858

The undersigned Master in Chancery to whom was referred the above entitled Cause to take and report the proofs in the Cause would respectfully Report,

That it was satisfactorily proved by the introduction of a Mortgage dated 26th day of November A.D 1856. given by Arvis C. Hinds and Jennett A. Hinds his wife to Robert Hanna the Complainant. that the said Defendants Mortgaged the following land situated in the County of Kane & State of Illinois to wit Commencing at the S.W corner of the S.E $\frac{1}{4}$ of Sec 26. T38. N of R. 7. E. of 3^d P.M. running thence N. 6. chains to the center of a Highway. thence S 68° E. along said Highway to the Eighth ($\frac{1}{8}$) corner. thence S 60 chains (60) thence N. 20 chains (20) thence S 60 chains (60) to the place of beginning 126 Acres, to secure the payment of Eighteen hundred Dollars as per Two promissory Notes which are herewith attached

\$1823.13

& interest from the 26th day of Nov 1857.
amounting in all up to this date of Eighteen
Hundred & Twenty three ¹³/₁₀₀ Dollars to Feb.
13/58. Said Mortgage also contained a
clause that in case said Mortgage should
be foreclosed the said defendants should pay
the Attorneys fees for said foreclosure to be
ascertained by any Court of Record. And said
Complainant introduced Augustus M. Herrington
who after being sworn testified that a reasonable
Attorneys fee for the foreclosure of said Mortgage
would be one hundred dollars. The
Complainant also introduced the affidavit of the
defendant Orris C. Hinds who "swears" that he
has never employed any Attorney or desire any
Attorney to appear for the defendant in this case
& make any defense the the claim in the
Mortgage is just & should be paid which
affidavit is hereby attached

The complainant also introduced
Chas E. Sawtun who testified that he resided in
Aurora. knew the Hinds farm. resided there
10 or 12 years. that in his opinion the farm
would bring in Cash fifteen or Twenty dollars
per acre.

Defence proved (under protest) that
the farm of the Defendant Orris C. Hinds was
worth from Thirty to Thirty five Dollars per acre
Cash. that the farm on the whole was a good farm
small House not much improvements. & all the
Witnesses for the defendant stated that they appeared
before the Master to testify at the request of
Thomas Menlen & that he was present before

the Master, all of which is respectfully
submitted.

Charles Wells

Master in Chancery

(Copy of Rtp Evidence attached to Master's Report)

Robert Hanna

v

Oris C. Windsorp

Evidence

January Term 1858.

Chas E. Sawtins

My age 24. reside in Aurora
I am acquainted with defen-
dant Sands, owned with 1/2 mile of Winds
land. It is worth in my opinion in Cash,
that it would fetch from fifteen to Twenty
Dollars per acre. have live there ten or twelve
Years.

(Copy of affidavit attch to Master's Rpt)

Robert Hanna

v

Oris C. Winds

Jennett Winds

Kane County Circuit
Court, January Term

A. D 1858.

Bill to foreclose.

Oris C. Winds being duly sworn
on oath says that he and his wife Jennett
Winds are defendants in the above entitled
cause, he would further state that no
Attorney has been employed by them or either
of them in the above cause, and they nor either
of them desire any defense to be made, that
the claim mentioned in the Mortgage is a
just and claim and should be paid
immediately and they mean the lands
mentioned in the Mortgage to pay the same

as soon as the same can be done in accordance
with law and all proceedings conducted in
my name for the purpose of defeating the
above objects are contrary to my wishes and

^{my}
Sworn & Subscribed before
me this 8th day of February } O. C. Woods
A.D. 1858. Charles S. Metcalf }
Notary Public }

(Copy of Notice attach'd to Masters Rpt)

Robert Hanna } Home County Cir Court
V } January Term A.D. 1858.
Oris C. Woods }
Jennett Woods } Bill to foreclose.

To Charles S. Wells. to whom after
default being made in said case the same
is referred to take the proof.

And the said Robert
Hanna by Parks & Fridley his Solicitors
appears and hereby enters his protest against
any proof being received in above case.

First it is not the evidence which the
Second it is done
without authority, and by parties
to the

And he asks that
this his protest may be entered and incor-
porated in the Masters Report.

Parks & Fridley
Compt's Sol.

(Copy of Evidence for Defener attchd to Master Rpt)

Robert Wainia }
Oris C. Winder } January Term A.D. 1858.
Samuel A. Winder } In Chancery.

The defendants appeal before the undersigned Master in Chancery of said Court by R. G. Montony their Attorney to make proofs to such appearance & proofs the Plaintiff by Parks & Fridley his Attorney enters his Protest.

John Markison

Sworn age about 85. reside at Sugar Grove. occupation Farmer. I know the farm owned by O. H. my farm joins it, it is a pretty good farm about a mile from Aurora. it is worth about 35¢ per acre. there has been change of property lately.

Crop Examination

the farm would bring in Cash \$35. I cannot tell what it would sell for in Cash. I cannot tell — If I wanted buy & had the money I would give \$35 per acre in Cash. Some of the farm is good & some not so good — on the whole it is a good farm. Thomas Newland wanted me to & he is present

McElwin

Sworn

Know the farm formerly occupied by O. H. — it is worth from 30 to 35¢ per acre — I have lived in that vicinity 19 years

from March - I have sold land there.

Crop Ex.

this land would bring \$30 per acre Cash I
sold for 45¢ per acre. the Woods place not much
improved Small Mease & fence. I bought a
place adjoining. I do not know of place sold
for cash exclusively. some Slough on the back
part of the farm. I came at the request of Thos
Newlan he is present.

Direct

the farm would bring 30¢ per acre Cash.

Peter Fisher sworn

I live on the Woods farm
I think the farm is worth 30¢ per acre If I
had the Cash I would give it to day.

Crop Ex.

I have lived 2 1/2 years in the neighbor hood
never bought nor sold and land. nor do own
any, nor saw a farm sold there for cash
I think it would bring 30¢ cash I came from
Vermont to this Country. No Barn. About 62
acres broke the rest is Slough. Mease with
one room. fence round the farm. Thomas
Newlan wanted me to come he is present.

(Copy of Oath attach to Master Rpt)

\$1500

Albany November 26th 1856

One year after date I promise to
pay to the order of Robert Hanna Fifteen
Hundred ⁰⁰/₁₀₀ Dollars Value Received

No 1 Due Nov 26. 1857.

Oris C. Winde

317.0

Aurora November 26th 1858

One year after date I promise to pay
to the order of Robert Hanna Three Hundred
no Dollars Value Received
N^o 2 Due Nov 26th 1857 } Ovis C. Hinde

And afterwards to wit on the 16th day of
February. A.D. 1858. a Mortgage was filed in
said Cause which said Mortgage is in the
words & figures following to wit.

This Indenture made this Twenty six day
of November in the year of our Lord one thousand
eight hundred and fifty six Between Ovis C.
Hinde and Jennett A Hinde his wife of Aurora
in Kane County and State of Illinois party
of the first part. and Robert Hanna of the same
place party of the Second part. Whereas the
said party of the first part is jointly indebted
to the said party of the Second part in the
sum of Eighteen hundred dollars and payable
as follows: To wit: Secured to be paid by two
certain promissory notes bearing even date herewith
Three hundred dollars payable in one year from
date & Fifteen hundred dollars in one year from
date. Now therefore this Indenture Witnesseth
that the said party of the first part for the
better securing the payment of the money
aforesaid with interest thereon according to the
tenor and effect of the said Notes above mentioned
And also in consideration of the further sum
of One Dollar to him in hand paid by the
said party of the Second part at the ensueing

and delivery of these presents the receipt
whereof is hereby acknowledged has granted bar-
gained sold and conveyed and by these presents
does grant bargain sell and convey unto the said
party of the second part his heirs and assigns
forever all that certain piece or parcel of land
lying in the County of Kane and State of Illinois
and bounded as follows To wit: Commencing
at the North West corner of the North East
quarter of Section Twenty Six in Township
Thirty Eight North and Range Seven East of the
Third Principal Meridian running thence North
Six chains (6) to the center of a highway Thence
South Sixty Eight degrees East along said Highway
to the (8) Eighth corner Thence South Sixty chains
(60) Thence West twenty chains (20) Thence North
Sixty chains (60) to the place of beginning con-
taining 126 acres to the same more or less.

Do have and to hold the same toget-
her with all and singular the Tenements Heredi-
ditaments and Appurtenances therunto belonging
or in anywise appertaining. And also all the
estate interest and claim whatsoever in law as
well as in equity which the party of the first part
has in and to the premises hereby conveyed unto
the party of the second part his heirs and assigns
and to his only proper use benefit and behoof.

Provided always and these presents are
upon this express condition that if the said
party of the ~~Second~~ ^{First} part his heirs executors
or administrators shall will and truly pay
or cause to be paid to the said party of the
Second part his heirs executors administrators

or assigns the aforesaid sum of money with
such interest thereon at the time and in the
manner specified in the above mentioned Note
according to the true intent and meaning
thereof that then and in that case these
present and every thing herein expressed shall
be absolutely null and void, or otherwise to
remain in full force and effect,

Further: The party of the first part
for his heirs executors and administrators do
covenant and agree to and with the party of
the second part his heirs executors and ad-
ministrators that in case of failure of the performance
of the condition or conditions above mentioned
to be performed by the party of the first part either
by himself or his heirs executors or administrators
that then the party of the first part will pay
or cause to be paid unto the said party of the
second part the Attorney fees for the foreclosure
of this said Mortgage to be ascertained by any Court
of Record in which this said Mortgage may
or shall be foreclosed as part of the Costs of
such foreclosure for which Judgment with the
Costs of Court shall be rendered and satisfied
out of the above Mortgaged Premises,

In Witness whereof the said party of the
first part hereunto set their hands and Seal
the day and year first above written
Signed Sealed and
delivered in the presence of Orris C. Weir and Seal
of J. L. Wanchell J. Bennett A. Hind Seal

State of Illinois
Name County } J. John S. Hauchett of Aurora
Notary Public in and for said
County in the State aforesaid do hereby certify
that Orris C. Hinde & wife who are personally
known to me as the real persons whose names
are subscribed to the annexed Mortgage
appeared before me this day in person and
acknowledged that they executed and delivered
the said Mortgage as their free and voluntary
act for the uses and purposes therein set
forth.

And the said Jennett A. wife
of the said Orris C. Hinde having been by me
examined separate and apart and out of the
hearing of her husband and the contents and
meaning of the said Mortgage having been by
me made known and fully explained to her
she acknowledged that she had freely and
voluntarily executed the same and relinquished
her dower to the lands and tenements therein
mentioned without compulsion of her husband
and that she does not wish to retract the same



Given under my hand and
Official Seal _____ day of November
in the year of our Lord one thousand
and eight hundred and fifty six.

John S. Hauchett
Notary Public

(Copy of endorsement on back)

State of Illinois
Name County } Filed on this 2^d day of December
A. D. 1856. at 2 o'clock P.M. and
Recorded in Book 46. Page 18, 19. & 20
P. R. Wright
Recorder

And afterwards, to wit, on the day and year last aforesaid, the following further proceedings were had in said cause and entered of Record in our said Circuit Court to wit;

Robert Hanna

v

Orvis C. Woods } Bill to foreclose.
Jennett Woods }

The said Jennett Woods and Orvis C. Woods having been duly summoned to appear and answer in this case as appears of Record to which reference is had and a rule being taken for an answer and the said defendants having neglected and refused to file an answer in pursuance of said rule and they and each of them three times solemnly called came not but make default herein which is ordered by the Court to be entered of Record and that the bill be taken as confessed and the case be referred to the Master to take the proof and the Master having made this report by which it appears that on the 26th day of November A.D. 1856. the said defendants made executed acknowledgment and delivered to the said complainant a certain Mortgage Deed being the one on file herein on certain lands described as follows to wit: All that certain piece or parcel of land being in the County of Kane and State of Illinois and bounded as follows To wit: Commencing at the North West corner of the North East quarter of Section

Twenty six in Township Thirty Eight North and
Range Seven East. of the Third Principal Mer-
idian running thence North six chains (6) to the
center of a highway. Thence South Sixty Eight
degrees East along said highway to the Eighth
(1/8) corner. Thence South Sixty chains (6) Thence
West twenty chains (20) Thence North Sixty chains
(6) to the place of beginning containing 126 acres
or the same more or less. Which Mortgage
Deed is in the words & figures ^{that is to} ~~following~~ say

This Indenture made this Twenty six day
of November in the year of our Lord one thousand
eight hundred and fifty six. Between Orris C
Wind and Jennett A his wife of Aurora in
Kane County and State of Illinois party of the
first part and Robert Hanna of the same
place party of the second part Whereas the
said party of the first part is justly indebted
to the said party of the second part in the sum
of Eighteen hundred dollars and payable as
follows. To wit: Secured to be paid by two
promissory Notes bearing even date herewith Three
hundred dollars payable in one year from date
& fifteen hundred dollars in one year from date

Now therefore this Indenture witnesseth
that the said party of the first part for the better
securing the payment of the money aforesaid
with interest thereon according to the tenor and
effect of the said Notes above mentioned, And
also in consideration of the further sum of one
dollar to him in hand paid by the said party
of the second part at the executing and delivery
of these presents the receipt whereof is hereby

acknowledged has granted bargained sold and
conveyed and by these presents does grant bargain
sell and convey unto the said party of the
second part. his heirs and assigns forever
all that certain piece or parcel of land being
in the County of Kane and State of Illinois
and bounded as follows to wit. Commencing
at the North West corner of the North East
quarter of Section twenty six in Township thirty
Eight North and Range Seven East of the Third
principal Meridian Running thence North Six chains
(6) to the center of a highway, Thence South Sixty
Eight degree East along said highway to the Eighth
(8) corner. Thence South Sixty chains (60) Thence
West twenty chains (20) Thence North Sixty chains
(60) to the place of beginning. Containing 126 acres
be the same more or less.

I Have and to hold the same together
with all and singular the tenements Hereditaments
and appurtenances therunto belonging or in any
wise appertaining. And also all the estate interest
and claim whatsoever in law as well as in equity
which the party of the first part have in and
to the premises hereby conveyed unto the party of
the second part his heirs and assigns and to his
only proper use benefit and behoof. Provided
Always and these presents are upon this express
condition that if the said party of the first
part his heirs executors or administrators shall
will and truly pay or cause to be paid to the said
party of the second part his heirs executors
administrators or assigns the aforesaid sum of
money with such interest thereon as the time

and in the manner specified in the above mentioned Acts according to the true intent and meaning thereof that then and in that case these presents and every thing herein contained shall be absolutely null and void or otherwise to remain in full force and effect.

Further! The party of the first part for his heirs executors and administrators do covenant and agree to and with the party of the second part his heirs executors and administrators that in case of failure of the performance of the conditions or conditions above mentioned to be performed by the party of the first part either by himself or his heirs executors or administrators that then the party of the first part will pay or cause to be paid unto the said party of the second part the Attorney fees for the foreclosure of this said Mortgage to be ascertained by any Court of Record in which this said Mortgage may or shall be foreclosed as part of the costs of such foreclosure for which judgment with the costs of Court shall be rendered and satisfied out of the above Mortgaged premises.

In Witness whereof the ^{Said} party of the first part hereunto set their hands and Seals the day and year first above written
Signed Sealed and delivered in presence of } Orris C. Woods Secy
of D. L. Haichelt } Lemuel A. Woods Secy

State of Illinois }
Kane County } I, John S. Haichelt of same
Notary Public in and for said
County in the State aforesaid do hereby certify

that Orris C. Hinde & wife who are personally known to me as the real persons whose names are subscribed to the annexed Mortgage appeared before me this day in person and acknowledged that they executed and delivered the said Mortgage as their free and voluntary act for the uses and purposes therein set forth. And the said Annette A. wife of the said Orris C. Hinde having been by me examined separately and apart and out of the hearing of her husband and the contents and meaning of the said Mortgage having been by me made known and fully explained to her she acknowledged that she had freely and voluntarily executed the same and relinquished her dower to the lands and tenements therein mentioned without compulsion of her husband and that she does not wish to retract the same. Given under my hand

{
Notary
Public

& official seal day of
November in the year of our Lord
one thousand eight hundred and
fifty six

John. L. Hancock
Notary Public

(Copy of Endorsement on back of Mort)

State of Illinois }
Kane County } Filed on the 2^d day of December
A.D. 1856. at 2 o'clock P.M. and
Recorded in Book 46. Pages 18, 19 & 20
P. R. Wright
Recorder

which Mortgage Deed was recorded in the
Recording Office of Kane County Illinois

on the 2^d day of December A.D. 1856 as appears
by the Recorders Certificate therein.

And it also appearing that the Mortgage
Deed was given to secure the sum of
Eighteen hundred dollars to be paid in one
year from that date and it also appearing
that the just and full sum of Eighteen
hundred twenty three ³/₁₀₀ dollars and
also the sum of one hundred dollars
attorney fees making in all the sum of
Nineteen hundred and twenty three ³/₁₀₀
dollars (\$1923.13) remains due and unpaid
complainant And it also appearing that the
Mortgaged premises are but a ~~Security~~ ^{Security} ~~Security~~
Security for the money secured thereby. And
it also appearing that the defendants are
anxious to have the Mortgage Premises
pay the debt secured thereby in the shortest
possible time in which it can be done under
the ordinary practice of this Court. and
whereas one Thomas Newlan under some
pretence which he has failed to develop
to the Court pretends to have some claim
to the premises and has been before the
Master making proofs but has failed
to give this Court to understand by what
right he has so done or by what authority
All of which facts more fully appear
by the Master's report which is ordered
to be filed as the proofs herein

It is therefore ordered adjudged
and decreed by this Court that upon
said defendants or any persons for them

paying to the said Complainant the sum of
Nineteen Hundred and twenty three ¹³/₁₀₀ dollars
(\$1923.13) and all costs in thirty days from
the date of entering this decree the said
Complainant shall release and cancel said
Mortgage of record and in case said sum
of Nineteen Hundred and twenty three ¹³/₁₀₀
dollars not being paid in thirty days from
the date hereof and default shall be made
in the payment of said principle interest and
costs at the time when specified to said
Complainant by the said defendants then
it is ordered adjudged and decreed that the
said defendants and all persons claiming
by through or under him or them subsequent
to the Mortgage of the said Complainant do
stand absolutely, debarred and foreclosed
of and from all equity of redemption of in
and to the said Mortgage Premises which
premises are described in the bill of Compl-
aintant and in the said Mortgage as follows
to wit: All that certain piece or parcel of
land lying in the County of Kane and State
of Illinois and bounded as follows to wit:
Commencing at the North West corner of the
North East quarter of Section Twenty Six in
Township Thirty Eight North and Range
Seven East of the Third principal meridian
running thence North Six chains (6) to the
center of a highway Thence South Sixty Eight
degrees East along said Highway to the
Eighth (8) corner Thence South Sixty chains
(6) Thence West twenty chains (20) Thence

North Sixty chains (60) to the place of beginning
containing 126 acres to the donor more or
less. And the said Master of this Court
Charles B. Wells is hereby appointed a
Commissioner & is hereby authorized and required
to make execute acknowledge and deliver
to the said Complainant his heirs or assigns
a Deed of Conveyance conveying and
assuring unto the said Complainant his heirs
or assigns all the right title and interest of the
said defendant of in and to the said Mortg-
aged premises of the said defendant at the
time of making and executing said Mortgage
in said Bill of Complaint mentioned and
Master's report described. And it is
further ordered adjudged and decreed
by this Court that upon default being
made in the payment of said principal
interest and costs in thirty days that the
Clerk of this Court issue his writ of
possession directed to the Sheriff of Kane
County commanding and requiring him
the said Sheriff to put out and expel of
and from the possession of the Mortgaged
premises the said defendant and all
persons claiming by through or under ^{him or} them
subsequent to the Mortgage Deed and
Recording thereof and deliver the possession thereof
to the said Complainant his heirs and assigns.

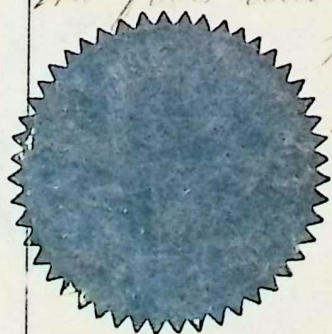
And it is further ordered adjudged
and decreed by this Court that the said
Defendants and each of them and also
said Thomas Sherman be served with

a copy of this decree duly certified by the
Clerk of this Court within ten days from
the date hereof by handing to them or leaving
at their and Each of their places of residence
copies certified as aforesaid hereof, and that
proof of such Service shall be made thereof
and placed upon ^{the} files of this Court, in this
Case before the said Master making the
Deed above mentioned. And it is further
ordered adjudged and decreed by this Court
that upon such Deed being made by said
Master as aforesaid it shall absolutely vest
the title to the Mortgaged premises in said
Complainant of the lands mentioned and
contained in said Mortgage and the said
Complainant shall thereupon pay the costs
of this proceeding

Isaac G. Wilson

State of Illinois }
Kane County, ss: }

I Paul R. Wright clerk of
Kane County Circuit Court in
the State of Illinois do hereby certify that the above
and foregoing is a true and correct copy of all
the Papers filed in the foregoing entitled cause, and
also of all orders and decrees entered of Record in
said cause in our said Circuit Court as appearing from
the files and Records of my office.



Witness Paul R. Wright clerk of our said
Court and the seal thereof at Geneva in said
County this 8th day of March A.D. 1858.
P. R. Wright, clerk

State of Illinois - Supreme Court
ss -

Thomas Newlan }
vs } Error to the Circuit
Robert - Hanna } Court of Kane County

And now comes the said Thomas Newlan - by J. Lyle Dickey his attorney and alleges - that ~~at~~ before and at the time of the Commencement of the suit & proceedings set forth in the transcript of the record here to attached - viz on the 4th day of January 1858 - he said Thomas Newlan was the owner in fee of the lands described in the ~~xxx~~ decree set forth in said transcript - And that he derived title thereto by means of a deed executed before that time viz on the 1st day of December 1857 - and that before the Commencement of said suit in said record mentioned he the said Thomas Newlan, took peaceable possession of said lands under & by virtue of said deed - and

thereupon be the said Thomas Newlan
so being in possession - put one
Peter Ferbet in possession of the
same as the tenant of said Newlan
- and said Newlan avers that
at the time of the commencement of
said suit ~~be~~ the said Peter Ferbet
was in possession of the said premises
solely as the tenant of said Newlan
and has ever since been and now
is so in possession of said premises
solely as the tenant said plaintiff
in error - and said Newlan
further alleges that said Orris
C. Hinds and said Lemuel
Hinds - had neither title nor pos-
session of said premises or any
part thereof at the commencement
of said suit ~~or~~ nor had either
of them - nor have they or either of
them had any such title or possession
since the beginning of said suit -
and ~~therefore~~ said Thomas Newlan
further alleges that said
Robert Hanna well knew before
and at the time of the instituting
of said suit - that the said plain-
tiff in error - had purchased said

premises and that said deed had
been executed as aforesaid and
that said Newlan had taken
possession under said deed and
that said defendants Davis C.
Hinds and Lemmett Hinds had
at the time of the commencement
of said suit no interest or
possession of said premises -
and thereupon said Thomas,
Newlan alleges that he is ~~opposed~~
a party aggrieved by said decree
and thereupon said Thomas
Newlan by said J. Lyle Dickey
his attorney comes and says that
there is manifest error apparent
upon the face of said record and
proceedings and that said decree
ought to be set aside - reversed
and for naught held - and
for specification of errors apparent
upon the face of said record -
said plaintiff in error Thomas
Newlan by his said attorney alleges
the following viz -

1st The court erred in making any decree against the plaintiff in error whatever - he not having been ^{made} a party to the bill nor served with process -

2nd The court erred in making any decree whatever in the case when it was apparent that all the parties to be affected by the decree were not before ~~the court~~ & were not parties to the bill -

3rd The court erred in decreeing a strict foreclosure of the mortgage

4th The court erred in ordering a writ of possession against the persons in possession of said mortgaged premises -

5 The decree on its face purports to affect the rights of persons not parties to the proceeding & having no notice thereof -

6th The court erred in decreeing that "all persons claiming by through or under "the defendant Hinds" subsequent to complainant's mortgage should stand absolutely debarred and foreclosed of and from

all equity of Redemption of, in and to the said mortgaged premises"-

7th

The court erred in decreeing, that the attorneys fees for foreclosing said mortgage should constitute a part of the mortgage debt-

8th

The court erred in decreeing a strict foreclosure of said mortgage when there was evidence on the record that the mortgaged premises were worth more than the amount of the mortgage debt-

9th

The decree made by the court is not supported by the evidence on the record-

10. The said decree is in other respects irregular, informal and erroneous-

Wherefore for the errors above assigned & for other errors apparent on the face of the record, the said Hewlan prays that said decree may be reversed ~~and set aside~~

J. Lyle Dick Key
Counsel for Hewlan
Plff in error-

101
Thomas Newlan &

des

Robert Hamner

Record & assign-
ment of errors

Filed March 16, 1878

L. L. L. L.
6116

Kam leirmit Court

Robert Haman

7

Appl. to. Bonds

Jennett Bonds

Record

Know all men by these present that we
Theodore Arnold and George & Brady
are held and firmly bound unto Robert
Hanna in the penal sum of three
hundred dollars of lawful money of the
United States: to the payment of which
well and truly to be made we bind ourselves
our heirs executors and administrators
jointly, severally and firmly by these
present.

Given under our hands and seals
this 15th day of March AD 1838.

The condition of the above obligation
is such that the said Robert Hanna
obtained at the February Term of
the same Circuit Court AD 1838 a decree
of foreclosure of certain lands against
Davis & Hinds Janet Hinds and Thomas
Arnold and whereas the said Arnold
is about to set out a writ of error
from the Supreme Court of the State
Illinois which is intended to operate
a supersedeas.

Now therefore if the said Thomas
Arnold shall duly prosecute his
said writ of error and in case the said
decree shall be affirmed he shall
pay the said decree costs interest
and damages, then this obligation to be
come void or otherwise to remain
in full force & effect.

Thomas Arnold
L.D. Brady

100

Thomas Newlan

vs

Robert Hanna

Super Bond

Filed March 17, 1888

at Deland

RLL

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,
TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY OF *Name* GREETING:

BECAUSE, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Name* County, before the Judge thereof, between *Robert Hammer*

plaintiff, and *Thomas Newlan*
& *Orvis C. Hinds & Jennie H. Hinds*

defendant - it is said manifest error hath intervened, to the injury of the aforesaid

Defendant Thomas Newlan as we are informed by *his* complaint, and we being willing that error should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the *first Tuesday after the third Monday in* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *16th* day of *March* in the Year of Our Lord One Thousand Eight Hundred and Fifty-eight.

John D. Scates
Clerk of the Supreme Court.
by J. B. Rice Deputy

101
Robert Hanna
of New York

Thomas Newlin
of New York
Writ of Error

This writ of error is made
a supersedeas, this 18th
day of March A.D. 1858, &
as such is to be obeyed
by all concerned.

Tested March 16. 1858
by H. B. Hunt
J. L. Hunt

J. L. Hunt
Clerk

Supreme Court - 3^d Grand Division -
April Term 1858

101. Thomas Newlan
vs
Robert Hanna } Error to Kane -

Whereas at the term of the
Circuit Court of Kane County the
following decree was made by said
Court, viz: (then in suit decree)

To reverse which decree said Thomas
Newlan has brought a writ of error -
Now therefore by the agreement & consent
of said Thomas Newlan & Robert Hanna
all irregularities & errors being waived,
it is ordered, adjudged & decreed, that
the said Thomas Newlan, who, it is
agreed has purchased said premises
of said Hinds in fee since the
Execution of said mortgage, pay to
the said Robert Hanna on or before
the first day of May in the year of
our Lord eighteen hundred and
fifty nine, the sum of money, in
(not including however cost)
said decree mentioned and interest
thereon at the rate of six per cent per

annum, or, that in default thereof, he be
barred & foreclosed of all equity of
redemption he may have in & to the said
premises in said mortgage described
- And it is further ordered, adjudged
& decreed by consent of said parties
That, upon said payment being
so made to said Hanna by said
Newlan, said Hanna shall execute
a release & discharge of said
premises from said mortgage.

See the same
*
It is further ordered, adjudged &
decreed by consent of said parties
That the said Thomas Newlan recover
of said Robert Hanna his costs &
charges by him expended in this
Court & that the costs & charges in
the Court below be paid by the
said Robert Hanna.

* And by consent of said parties it is further
ordained adjudged decreed that the said Thomas Newlan
who is in possession of said premises ~~shall~~ have &
retain the possession of said premises until said
first day of May A.D. 1859 and that upon a failure
by him to pay the amount of said decree as aforesaid
that the said Robert Hannard be let into possession
~~thereof~~ & that said Thomas Newlan do time up to then
the said Thomas Newlan.

Correct

E. Lee and
W. H. Lee

101.
Thos. Moulton
by
Robert Hanna

Final order

Filed May 26, 1838
S. Leland
Clerk