

No. 13842

Supreme Court of Illinois

Root

vs.

Bowen et al

71641  7

United States of America

STATE OF ILLINOIS, COUNTY OF COOK, S. S. }

Pleas, before the Honorable Georg Mennen

Judge of the Seventh Judicial Circuit of the State of Illinois, and Solo' Presiding' Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House in the City of Chicago, in said County, on the

Tenth Monday, (being the Tenth day) of

March in the year of our Lord one thousand eight hundred and

Eighty Eight and of the Independence of the said United States the

Eighty Second

Present, Honorable Georg Mennen Judge of the 7th Judicial)
Circuit of the State of Illinois.)

Carlo Haon States Attorney.

John S. Wilson Sheriff of Cook County.

Attest; W. S. Church Clerk.

Be it Remembered that heretofore, to wit: at the
March Term of said Court, to wit: on the 3^d day of
March in the year last aforesaid the following
among other proceedings in said Court, were had
entered of Record, to wit;

Henry C Bowen Theodore McNamee
Henry L Stone and Samuel B Holmes
Copartners under the firm name of Bowen
McNamee & Co George A Whitney John B Ferris
& John L Childs Copartners under the firm name
of Whitney Ferris & Co George A Whitney John B
Ferris George A Shaw Stillman A. Edward &
Henry J Woods Copartners under the firm name
of Whitney, Ferris, Shaw & Co, Henry Loung &
George A Fiske Copartners & doing business
under the firm name of Loung & Fiske

vs

Arson Root

This cause came on to be heard at the March
Term of said Court upon the bill of complaint
answer replication & exhibits filed therein and
also upon the proofs taken in said cause,
and the said complainants having previously
filed their objections to portions of the deposition
of H. C. Anderson taken in said Cause, to wit
to the sixth direct interrogatory propounded

to said witness and his answer thereto on the ground that the deed or deeds of conveyance conveying the title to the lands therein referred to and enquired of should be produced.

- 2nd To the 9th direct interrogatory propounded to said witness and his answer thereto on the ground that it appears from his answer thereto to the 30th & 31st cross interrogatories and to the 27th & 32^d direct interrogatories that he held the land therein referred to prior to 1852 under a contract in writing made prior to that time, and that said writing should be produced.

+ 3^d To the 10th direct interrogatory and the answer thereto on the ground that the writings if any evidencing the sales ^{enquired} of should be produced, and further to said interrogatory and the succeeding interrogatories and the answers thereto so far as the same are sought to effect, the deed of defendant to witness of the property in question made in 1852.

- 4th To the fifteenth direct interrogatory on the ground that the same is leading and further to the answers to the 15th and 16th direct interrogatories on the ground that the agreement in writing mentioned in the answer to the 16th direct interrogatory should

be produced -

- 5th To the 17th direct interrogatory and the answer thereto on the ground that it appears from the answer to the first cross interrogatory and the 27th & 32^d direct interrogatories that the deed spoken of was executed in pursuance of an agreement evidenced by writing and made the 29th day of October A.D. 1854, that the writing should be produced -

- 6th To the 18th direct interrogatory on the ground that the articles or bonds therein referred to should be produced -

+ 7th To the 13th direct interrogatory and the answer thereto on the ground that it appears from the answer thereto of the witness to the 13th cross interrogatory that there was a contract in writing stating the amount to be paid by witness to Root for the land which should be produced and also on the ground that the parties thereto are estopped by the statement in the deed with regard to the consideration for said lands -

8th To that part of the answer of the witness to the 7th & 34th cross interrogatories wherein the witness states that he executed to defendant a mortgage on a lot in Chicago on the ground that the same are not responsive to the interrogatories & also on

the ground that said Mortgage should be produced -

+ 9th To the first part of answer to the 145 Cross interrogatory on the ground that the same is not responsive to said interrogatory -

- 10th To the answer to the 82^d direct interrogatory on the ground that the writing therein referred to should be produced - and the Court considering said objections overruled by the first third seventh and ninth of said objections and sustained the second, fourth, fifth sixth & ninth of said objections - to which ruling of the Court the defendant excepts. And the said Complainants having in addition to the depositions taken in said cause, given in evidence a warranty deed executed by Anson Root & wife to Hollin C Anderson dated Oct 4th A.D. 1852 & recorded in the Recorder's office of Kane County A.D. 1852 whereby said defendant conveyed to said Anderson the property in said bill of Complaint described, with other property in the then Village of Aurora - and also a Mortgage of the same property executed by said Anderson to said Root, to secure the payment of about four thousand dollars of same date and recorded in Recorder's office of said County on the 15th of Feb. 1853 also a

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deed of conveyance executed by said Hollin
C Anderson wife to the defendant Anson
Root dated the fourth day of November A D 1854
particularly described in the bill of complaint
filed in this cause and recorded in the Recorders
office of Kane County on the 4th day of November
A D 1854 also a deed of conveyance executed by
the said Hollin C Anderson wife to William
A Pratt dated the 17th day of October A D 1854,
and recorded in the Recorders office of Kane
County on the 4th day of November A D 1854,
also a deed of conveyance executed by said
Hollin C Anderson wife to said Anson Root,
conveying to said Root, the South $\frac{1}{2}$ of the
North $\frac{1}{2}$ of Lot 21, in Wabansia addition to
Chicago for the consideration named in
said deed of four thousand dollars, dated
the fourth day of November A D 1854, and
Recorded in the Recorders office of Cook
County on the day of A D 1854
to the introduction of all which evidence ~~and~~
~~each part thereof~~ the defendant at the time
excepted - and it appearing by stipulation
on file in said cause, made by the respective
Counsel of said Complainants and said
defendant, that the several writs of attachment
mentioned in the bill of Complaint filed in
this cause were issued as therein set forth

and levied upon the real estate as therein set forth and that certificates of such levies were duly filed as therein set forth, and that Judgments were duly recovered as in said bill of Complaint is alleged and that execution issued thereon as therein set forth and levies made and certificates of such levies filed as therein stated and charged and that said complainants should not be required on the hearing of said cause to produce the record of the proceedings in said attachment suit and the processes issued thereon and the proceedings of the Sheriff to whom the same were directed - and the said cause having been fully argued as well by Counsel for the defendant as well as by Counsel for ^{said} the Complainants & the Court being fully advised in the premises, and finding that the deed of conveyance set forth in said bill of Complaint - to wit the deed of Conveyance bearing date the 4th day of November A.D. 1854 and recorded in the recorder's office of Hare County in Book 36 page 346 - whereby the said Hollin C. Anderson & Martha his wife conveyed to said defendant Anson Root the following described real estate lying and being in the

County of Kane and State of Illinois to wit
in the Village of Aurora the M^{or} three acres
of land in Block C of Andersons addition to
Aurora also Lots number 13+14 in Block D,
also Lot 4 in Block L also Lots 6+11 in Block
K also Lots 9+10 in Block H, also Lots 6+7
in Block B also the east ten acres in Block
O. also Lots 1, 2, +4 in Block E. also Lots 12
in Block C. also Lot 13 in Block G. also
Lot 7 in Block J. all the foregoing described
lots and lands lying and being situated in
Andersons addition to the Village of Aurora
Also in Root's addition to the Village of
Aurora the following described property
to wit Lots 3, 4, 5, +6 in Block (11) also Lots
3, 4, 5, +6 in Block J also Lots 4, 5, +6 in Block
(8) also in the Village of Aurora the following
described property to wit the Western part
of Lot 2, in Block (11) being 24 feet on Main
Street by 120 feet deep being the western
24 feet of said Lot, also sixty feet off the
North side of Lot number 1, in Block number
(13) also sixty feet off the North side of Lot
number (1) in Block number seventeen -
was made and continued for the purpose
and with the intent on the part of the
said Hollin C. Anderson and the said defen-
dant Anson Root to hinder and defraud, the

said Complainants creditors of the said Hollin C Anderson of their just & lawful debts, and that said Conveyance was in fact made without any consideration therefor. It was therefore ordered adjudged & decreed and is hereby ordered adjudged & decreed - that said deed of Conveyance be set aside & go for nought as against said complainants creditors of the said Hollin C Anderson - and that the said defendant Anson Root take nothing thereby, as against said Complainants and that he and all others claiming by through or under him be forever precluded and barred from asserting any title to said premises in said deed of Conveyance described as against said Complainants creditors as aforesaid under or by virtue of said deed of conveyance - and that said deed of Conveyance be treated in all respects, as between said Complainants and said defendant as absolutely null and void. It is further order^{ed} adjudged and decreed that the Complainants have and recover of the said defendant their costs in this suit and that they have execution therefor. It is further ordered adjudged and decreed that the Sheriff to whom the execution mentioned in said

bill of Complaint have been directed proceed
to sell said premises and distribute the
proceeds pro rata among said Complain-
ants according to their several debts. -

And afterwards, to wit: on the 5th day of
March in the year aforesaid there was filed
in the office of the Clerk of the Court aforesaid
a certain appeal Bond, which is in the
words and figures following, to wit:

In the Cook Circuit Court,

Henry Bowen, Theodore
McNamee, Samuel B Holmes
George A Whitney, John B Ferris
John S Chiles, George A Shaw
Sturman & Elden, Henry T
Hoods, Henry Lovin, George A Fiske
and Cyrus K Anderson

vs

Arson Root, -

In Chancery

Change of
Venue from
Kane County

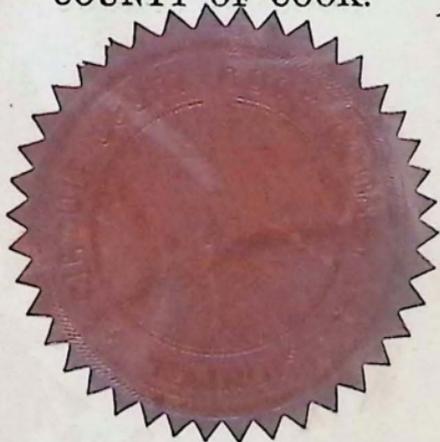
Bill

Know all men
by these presents that we said Arson
Root as principal & William H Watson
as his surety, are held and firmly bound
unto the Complainants in the above
entitled cause in the sum of five hundred
dollars - for the payment of which well
and truly to be made unto them we do
bind ourselves our heirs executors and
administrators jointly & severally firmly
by these presents -

Signed sealed and dated this
day of March A D 1858 -

The condition of this obligation is
such that Whereas the said Circuit Court
did at the March vacation term thereof A D
1858. under a decree in the above entitled

State of Illinois, }
COUNTY OF COOK. } P. S.



I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of the final Decree & the Appeal Bond in a certain cause lately pending in said Court on the Chancery side thereof, wherein Henry C Bowen & Co were Complainants and Alson Root was defendant

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our said Court at Chicago, this First day of June A. D. 1858

W. L. Church
Clerk.

cause against said Anson Root Defendant therein from which he hath prayed an appeal to the Supreme Court of this State which hath been allowed upon his giving bond & security as required by law & the order of the Court in that behalf-

Now therefore if the said Root shall prosecute said Appeal to effect & without delay - and shall pay the judgments costs interest & damages in case the decree of the Court shall be affirmed then the above bond to be void or otherwise to remain in full force and effect -

Anson Root

seal

W^m C Watson

seal

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Supreme Court

Root Appellant

~~vs~~ vs

Boomer et al
Appellee

Appeal Bond

Filed June 2, 1858

J. Leland

CLK

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