

13949

No.

Supreme Court of Illinois

Pierson

vs.

Hill

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State of Illinois } 3^d Oct.
Hauock County } 3

Pleas before the Honorable Joseph
Sibley Judge of the fifteenth Judicial
Circuit of the State of Illinois.

At a circuit Court begun and held
at the Court House in Carthage
on the first Monday in the month
of March in the year of our Lord
One thousand Eight Hundred
and fifty nine it being the Seventh
day of said month.

Present the Hon.

Joseph Sibley Judge
Calvin A. Warren State Attorney
J. R. Davis Clerk.

William R. Hamilton Sheriff

Plaintiff

In Assumpsit

Jenniah Pierson

vs.

Foster A. Hill and

Robert H. Ellis

Defendants.

And afterwards to wit on the 18th day of March 1859.
an order was entered herein, which order is in the
ends and figures following to wit.

And now come on to be heard a motion for a certiorari
warrant herein, and the court being fully advised
in the premises is of the opinion that the same
be overruled, And the said defendants, having
nothing further to say in bar of the Plaintiffs
right to recover against them herein. It is

4 therefore ordered by the Court that the said Plaintiff
" have and recover of the said defendants his dam-
" ages herein sustained by reason of the premises, and
" because those damages are to the Court here unknown
" It is ordered that the Clerk assess the same, and
" the Clerk having assessed and reported the damages
" aforesaid at the sum of five hundred and sixty
" one Dollars which report the Court now here
" approves. It is therefore further ordered by the Court
" that the said Plaintiff have and recover of the said
" Defendants as well the said sum of five hundred
" and sixty one dollars his damages so assessed
" as aforesaid, as also his Costs by him in this
" behalf expended and that he have execution therefor

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" And hereupon the said Defendants by their
" attorney pray an appeal to the Supreme Court
" which is allowed on condition that the said
" Defendants enter into bond to the said Plaintiff
" in the penal sum of One thousand Dollars with
" B. G. Clarken, John B. Compton, Horace Mead
" and Job Green or any two of them as their security
" conditioned according to law, said bond to be filed
" within thirty days from the date hereof

And afterwards to wit on the 14th day of April
AD 1859. the defendant filed his bond herein, which
said bond is in the words and figures following to
wit:

" Know all men by these presents that we Foster

A. Hill, Robert H. Ellis Joab Green and Horace
Mead are held and firmly bound unto Jeremiah
Pierson in the penal sum of One thousand dollars
lawful money of the United States for the payment of
which well and truly to be made we bind ourselves
our heirs and administrators, jointly severally
and finally by these presents. Witness our hands
and seals this eighth day of April A.D. 1859.

The ^{condition} above obligation is such that whereas
the said Jeremiah Pierson did on the 18th day of
March A.D. 1859. in the Circuit Court of the County
of Hancock recover a judgment against the above
bounden Foster A Hill and Robert H. Ellis
for the sum of five hundred dollars and
sixty one cents and costs of suit from which said
judgment the said Foster Hill has has taken
an appeal to the Supreme Court of the State
of Illinois. Now if the said Foster A Hill
shall prosecute his appeal with effect and shall
pay whatever Judgment - all costs interest or damages
may be rendered by the Court upon dismissal
or trial of said appeal, then the above obligation
to be void otherwise to remain in full force and
effect

F. A Hill Seal
Robert H. Ellis Seal
Horace Mead Seal
Joab Green Seal

State of Illinois 3^d Oct.
Hancock County 3

I Squire R Davis clerk of the Circuit
Court in and for said County do hereby
Certify that the foregoing is a true and
perfect copy of the Convening order of Court
Judgment or decree appealed from, prayer
and Order for appeal, and appeal bond in
the foregoing entitled Cause in as full and
ample a manner as the same appears
from the records & files of my office
In Testimony whereof I have hereunto set
my hand and the seal of said Court
at my office in Carthage this 31st day
of December A.D. 1859.

Squire R. Davis Clerk
per A. N. Hawley Deputy



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Jessiah Purson

Foster A Hill &

Robert H Ellis

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Dr

State of Illinois
Hancock County } Sect.

Thus before the Honorable Joseph Sibley
Judge of the fifteenth Judicial Circuit
of the State of Illinois sitting as a
Court of Chancery in and for said
County began and held at the Court
House in Carthage on the first Monday
in the month of March in the year
of our Lord One thousand Eight hundred
and fifty nine it being the Seventh
day of said month.

Present. The Hon.

Joseph Sibley Judge
Squire R Davis Clerk.
William R Hamilton Sheriff

Jeremiah Pearson } Plaintiff
vs. } In Chancery.
Foster A Hill } Defendant

And afterwards to wit on the tenth day of March 1859
an order was entered herein, which said order is in
the words and figures following to wit.

" The report of David Clark master in Chancery of said
" County to whom this cause is referred to hear and report
" proof. Said master finds by an examination of the deeds
" recorded in the Recorders office of said Hancock County
" that said complainant Jeremiah Pearson was seized
" of the premises in said Bill mentioned to wit, Lot No
" Eight (8) in Block No One (1) in Abernethys addition

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" to the town of Augusta Situate in the County of Hancock County
" and state of Illinois on the twenty fourth day of April A.D.
" 1857. And it is proved by the testimony of William S. Bennett
" a witness produced and sworn in this cause, that the two
" several notes described in said complaint's bill were executed
" and delivered by said defendants and one Robert H. Ellis to
" said Complainant for the deferred payments of the purchase
" money for said premises; That said defendant Foster &
" Hill went into possession of said premises at the time of his
" purchase of the same on the 24th day of April A.D. 1857
" and has continued in possession ever since and now is in
" possession of said premises; It is further shown by the
" deed of conveyance on record on record of in the Records
" office of said Hancock County duly executed and
" acknowledged by the said Jeremiah Pearson and Sarah
" & his wife, that said complainant on the fourth day of
" May 1857. Conveyed said premises to said defendant for
" the consideration of fifteen hundred dollars which said
" deed was recorded on the 25th day of March 1858, both of
" said promissory notes for the deferred payment of said
" purchase money were fully set out in said deed of
" conveyance, And it fully appears from said deed that
" said Complainant, The vendor in said deed, did ex-
" pressly by the terms of said deed reserve a lien upon
" said premises for the payment of the purchase money
" It further appears in evidence that the last one of
" said promissory notes which became due on the first
" day of January 1859, yet remains due and unpaid & that

there is now due to the said complainant on said promissory note of principal and interest the sum of five hundred and sixty dollars and twenty cents for the payment of which said complainant has a lien on said premises all of which is respectfully submitted,

D. Mack Master in Chy"

And now again comes the said complainant by his Solicitor Warren and Wheat on whose motion it is ordered that the said report of the said master in chancery be and the same is hereby approved and confirmed by the Court and this cause now coming on for final hearing upon the said bill of ~~complaint~~ complaint, decree confessed, Report of said master in chancery and testimony of witnesses and proofs and exhibits adduced, and the complainant having thereby fully to the satisfaction of the Court proven in this cause that he was seized and possessed of the real estate in the said Bill of Complainant described to wit, Lot No Eight (8) in Block No one (1) in Abernethys addition to ^{the town of} Augusta in the County of Hancock and State of Illinois, and conveyed the same, to the defendant for the price and at the time and in the manner alleged by said Bill, and that the note set out in the said bill was given by said defendant to said complainant for the deferred payments of the purchase money for said premises, and that there is now due to the said complainant thereon from the said defendant for principal and interest, the sum

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of five hundred and sixty dollars and twenty cents, and that the said complainant for the payment of said last mentioned amount of money has been on said premises as the vendor of the same, to said defendant, and the Court being now fully satisfied that the prayer of said Complainant's said bill ought to be granted and the said lien of the said Complainant as vendor, for and to the amount of five hundred and sixty dollars and twenty cents, declared and enforced by the Court, It is there ordered adjudged and decreed by the Court now here, that the said Complainant is entitled to his said lien on said described premises, and that the said sum of five hundred dollars and sixty dollars and twenty cents is hereby declared to be a lien on said premises, in favor of said Complainant and against said defendant, that the said defendant pay or cause to be paid to the said Complainant or to the said master in Chancery for him within thirty days from this day the said sum of five hundred and sixty dollars ~~and~~ ^{and} twenty cents with interest at the rate of six percent per annum thereon, together with the costs of this suit which it is considered by the Court here that the said complainant recover of the said defendant and that the said defendant shall pay or cause to be paid as aforesaid, that in default of such payment of said lien herein declared by

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of five hundred and sixty dollars and twenty cents, and that the said complainant for the payment of said last mentioned amount of money has been on said premises as the vendor of the same, to said defendant, and the Court being now fully satisfied that the prayer of said Complainant's said bill ought to be granted and the said lien of the said Complainant as vendor, for and to the amount of five hundred and sixty dollars and twenty cents, declared and enforced by the Court, It is there ordered adjudged and decreed by the Court now here, that the said Complainant is entitled to his said lien on said described premises, and that the said sum of five hundred dollars and sixty dollars and twenty cents is hereby declared to be a lien on said premises, in favor of said Complainant and against said defendant, that the said defendant pay or cause to be paid to the said Complainant or to the said master in Chancery for him within thirty days from this day the said sum of five hundred and sixty dollars ~~and~~ ^{and} twenty cents with interest at the rate of six percent per annum thereon, together with the costs of this suit which it is considered by the Court here that the said complainant recover of the said defendant and that the said defendant shall pay or cause to be paid as aforesaid, that in default of such payment of said lien herein declared by

560
 28.00

1 said defendant to said complainant or said
2 Master in chancery within said period of
3 thirty days from this day, The said Master in
4 chancery David Mack Esq shall proceed
5 to advertise said premises for sale, and sell
6 the same at public vendue at the west
7 front door of the Court House in Carthage
8 in said Hancock County for cash in hand
9 to the highest and best bidder therefor, after
10 having given notice of the time terms and
11 place of said sale together with the names
12 of the parties to this suit in the same manner
13 as sheriffs are required by law to advertise the
14 sale of lands made by them on executions
15 issued upon judgments at law, and that on making
16 such sale by the said Master in Chancery he shall
17 execute acknowledgments and deliver to the purchaser or
18 purchasers thereof a deed of Conveyance to the same
19 in fee simple absolute all the right title and estate of
20 the said defendant in and to the said premises, and
21 that the said Master in chancery disburse the proceeds
22 of said sale, as follows to wit. 1st That he pay the costs
23 of said suit and sale, 2nd That of the balance
24 if sufficient remain in his hands he pay to said
25 complainant said lien with accruing interest
26 thereon + 3rd That he pay the residue of ^{said} proceeds
27 if any there shall be to the said defendant, and
28 this cause stands continued

J Sibley

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2 Master in chancery within said period of
3 thirty days from this day, The said Master in
4 chancery David Mack Esq shall proceed
5 to advertise said premises for sale, and sell
6 the same at public vendue at the west
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23 of said suit and sale, 2nd That of the balance
24 if sufficient remain in his hands he pay to said
25 complainant said lien with accruing interest
26 thereon + 3rd That he pay the residue of ^{said} proceeds
27 if any there shall be to the said defendant, and
28 this cause stands continued

J Sibley

And afterwards to wit on the 16th day of March A. D. 1809.
the following ^{order} was entered herein, which said order is
in the words and figures following to wit:

And now at this day comes the said defendant ~~and~~
by his attorney Council and moved the Court to set aside
the decree rendered herein at the present term of this Court
for the following reasons to wit:

1. Said Bill is filed to enforce a vendors lien upon
real estate and the decree is made to establish said lien
for the amount of deferred payment, when it appears by
the bill filed herein that said Complainant took
personal property security of said defendant for the
deferred payment for the amount of which said
decree is rendered.

2. Said decree directs the payment of the money
to be made within thirty days after rendition
of said decree; and also directs that in default
of payment within thirty days an absolute
sale of the land in this bill described shall be
made.

3. Said decree purports to be and is made upon facts
and allegations not set forth in the bill, but established
and brought to the notice of the Court by evidence
dehors the Bill. And said motion coming on
to be heard and argument of Council being had
thereon, and the Court being now sufficiently ad-
vised of and concerning the premises, It is
now ordered and decreed by the Court that

Said motion be overruled.

And thereupon the said defendant prayed an appeal from said decree, which is granted here in upon his entering into bond conditioned as the law directs within thirty days after the adjournment of this court with Joab Green, Robert Ellis & B. Y. A. Clarkson as his security, said bond to be in the penalty of one thousand dollars.

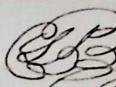
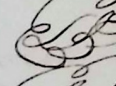
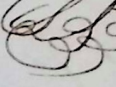
J. Sibley

And afterwards to wit on the 7th day of April 1859. the defendant files his bond herein, which said bond is in the words and figures following to wit;

Know all men by these presents that we Foster Hill, Robert Ellis, B. Y. A. Clarkson & Joab Green are held and firmly bound unto Jeremiah Pearson in the penal sum of One thousand Dollars lawful money of the United States, for the payment of which well and truly to be made, we bind ourselves our heirs and administrators jointly, severally and firmly by these presents. Witness our hands and seals this Seventh day of April A.D. 1859.

The condition of the above obligation is such that whereas the said Jeremiah Pearson did on the tenth day of March A.D. 1859, before the Circuit Court within for

" the County of Hancock, recover a judgment
" against the above bounden Foster A Hill
" & Robert H Ellis for the sum of five hundred
" and sixty One Dollars and — cents — and
" — Dollars and — cents. Costs of suit; from which
" judgment the said Foster A Hill has taken
" an appeal to the supreme Court of the State
" of Illinois. Now if the said Foster
" A Hill shall prosecute his appeal with
" effect and shall pay whatever judgment
" may be rendered by the Court upon dismissal
" or trial of said appeal & all costs interest &
" damages, then the above obligation to be void;
" otherwise to remain in full force and effect

Foster A Hill
By his aty Joab Green
Joab Green 
Robert H Ellis 
By A. Clarkson 

State of Illinois Hancock County 52

I Esquire R Davis Clerk of the Circuit Court in and for said County
do hereby certify that the foregoing is a true and perfect copy of
the Commencing order of Court, Judgment or decree appealed
from, prayer and order for appeal, and appeal bond
in the foregoing entitled cause in as full and ample
a manner as the same appears from the records & files in my office

In testimony whereof I have hereunto set my hand and the said Court
at Shelby office in Carthage. this 31 December 1859

Esquire R Davis CLK
Jn A H Hancock copy

Ms. A. 2. 35

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Jeremiah Person

or

Poster A Hill

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Messrs J. B. G.
Westbury
Ch

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