

No. **12157**

Supreme Court of Illinois

Randall, et al

vs.

Gray

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United States of America
3 State of Illinois

Hear before the Hon. Isaac C. Wilson
Judge of the Thirteenth Judicial Circuit
of the State of Illinois & Presiding Judge of the
Kane County Circuit Court, at a special
Term of said Court begun & held at the
Court House in Geneva in & for the
County of Kane on the sixteenth day of
January in the year of our Lord one thou-
sand eight hundred & fifty four in pursu-
ance of an order of said Court made at
the last November Term thereof.

Present Hon. Isaac C. Wilson Judge

Isaac B. Spalding Sheriff

Attest Luther Dearborn Clerk

And whereas afterwards to wit on the
26th day of January 1854, being one of the days of the
aforesaid Term, the following among other proceed-
ings were had which are in the words of figures fol-
lowing to wit:

Jacob Gray Compt^l

George H. Young George W. Young
Sydney W. Randall Joseph W. Allen

Kane County Circuit Court
Special Chancery Term - for
January A D 1854.
In Chancery

This cause coming on to be heard in
pursuance with the stipulations filed herein upon the Bill
of Complaint of Jacob Gray and the answer of the defend-
ants in said Cause George H. Young, George W. Young,
Sydney W. Randall and Joseph W. Allen and the application

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and proofs filed herein, to wit, the exhibits & schedule attached to said Bill of Complaint, & the depositions of Benjamin F. Fridley and Hannah Gray on the part of complainant, and Phillips Youngs, William M. Wharton, John M. Wharton, John R. Youngs, Catharine Youngs formerly, Kate Nimrod Youngs, Michael Riley, Alonzo Atwood, Napoleon R. Youngs, William H. Hanson, Robert Youngs, and the said certificate of sale to which exhibits & schedules and depositions reference is had for particularly, and accuracy. Which were ordered to be filed as the proofs. And it is satisfactorily appearing to this Court that a certificate of sale bearing date January 24th 1850 made by William Fowler Sheriff of Kendall County, State of Illinois to the Defendant George M. Youngs, which certificate is in the words and figures, to wit:

Certificate of Sale, Helm & Randall

vs. Filed for Record Jan^y 25th 1850
George M. Youngs at 7th C. R. M.

State of Illinois vs.
Kendall County, J. William L. Fowler Sheriff of Kendall County, State of Illinois do hereby certify, that by virtue of three Executions issued out of the Cook County Court, One in favor of Sylvester W. Randall date the 22^d day of November 1849 and against George M. Youngs - for \$3.00 - damages and \$8.75 costs amounting to \$308.75 - the - in favor of Joseph H. Helm dated the 22^d November 1849 and against George M. Youngs - for \$3.00 - damages and \$8.75 and amounting to \$308.75 - Also one return in favor of George M. Youngs dated the 23^d November 1849 and against George M. Youngs for \$3.00 - damages and \$8.75 - amounting to \$372.75 - Commanding me that of the Goods & Chattels, Lands & Tenements of the said

George H. Gorms, that I cause to be made the sum above mentioned, which the above named Sylvester W. Randall, Joseph W. Helen and George W. Gorms lately in the last County Court, returned against the said George H. Gorms, which by the Court was adjudged to the said Sylvester W. Randall, Joseph W. Helen and George H. Gorms with the costs in the same respectively showing advertisement the lands herein after described as the property of George H. Gorms & that I should offer them for sale at the door of the Court House at Oswego in the County of Kendall on the 15th day of January 1850 at 2 1/2 P.M. of said day offer the said lands for sale at the door of the Court House in said County and state where the sale was kept open for want of bidder till 4 1/2 clock P.M. of said day where the same was sold in parcels as follows.

One certain piece of land, bounded and described as follows, being a part of the East part of Section 4 in T. 37 North Range 8 East Beginning on the West line of Section 4. & ~~to~~ ²¹ ^{links} North from the North West corner of said Section 9. thence West 21 ^{links} to the West line of the John Prime claim, thence Northerly along said claim line 18 chains 30 links till said claim line strikes the West line of Section 4. thence South along said Section line 18 chains 30 links to the place of beginning supposed to contain 3 acres 1/4 of an acre of land more or less. was struck off to George W. Gorms for Two Dollars 50 cents, he being the highest & best bidder for said parcel of land.

Also one other piece of land situated in same Township and Range and being a part of the South West quarter of Section 4, bounded as follows. to wit, Beginning 22 Rods North of the South West corner of said quarter Section, thence North 75 rods, thence South 22 1/2 Rods East

6 38 rods 8 feet. thence South $6^{\circ} 30'$ West 73 rods, thence North $89^{\circ} 59'$ West 50 rods 8 feet to the place of beginning containing 24 acres and Two of land more or less. — was struck off to George W. Young for the sum of Fifty Two Dollars that being the highest and best bidder for the same. — Also the following described lands being the Northeast quarter of the South East quarter of the Section Number Two (2) in Township 37 North Range 7 East. together with a part of the South East quarter of the South East quarter of Section Number Two (2) and bounded as follows to wit: Beginning 14 Rods 14 links North from the South East corner of Section 2 thence South 65° West 11 rods 12 links thence North 22° West 7 rods 16 links thence South 63° West 32 rods thence South 29° West 3 rods 11 links to the South line of Section 2. thence West on said line (8) chains 85 links thence North 20 chains thence East 20 chains to the East line of said Section Number 2 thence South on said line to the place of Beginning containing in both said last mentioned lots about six & 96/100 of land more or less. — Was struck off to George W. Young for the sum of Two Hundred and fifty Dollars he being the highest and best bidder therefor. — Also the West half of the South East quarter of Section Number Two Township 37 North Range 7 East 3 Principal Meridian. Containing eight acres of land more or less was struck off to George W. Young for the sum of Fifty Dollars that being the highest & best bid therefor. — Also the following described piece of land bounded as follows to wit. Being a part of Section one and Twelve of the same Township & Range as aforesaid

7 Beginning at the South East corner of section
One thence East on the line of said Section 2, road
thence South $2^{\circ}45'$ East to a stake on the South line
of the North East quarter of the aforesaid Section Num-
ber Twelve and section road 87 five feet from the
South East corner of said quarter Section thence East
on said line to a stake 39 rods (15 feet) West from
the South East corner of said quarter Section thence
North 266 rods 3 feet to the center of the road thence
South $54^{\circ}30'$ West to a stake on the West line of
said Section Number one thence South on said
line to the place of beginning containing One
Hundred and fifty four Acres of land more or less
was struck off to George W. Youngs he being the
highest and best bidder therefor for the sum of Two
Hundred Dollars. Also the North East quarter of Sec-
tion Numbered 22 in Township Number 3 North
Range 7 East 3 Principal Meridian containing
One Hundred and Sixty nine Acres 5000 of land more or
less was struck off to George W. Youngs he be-
ing the highest and best bidder therefor for the sum
of One Dollar and fifty cents. And the said George
W. Youngs will be entitled to a deed for the same
at any time after the expiration of fifteen calendar
months from the day of sale, provided the same
shall not be redeemed within that time according
to law. Given under my hand & seal this 24th
day of January A.D. 1850
Filed May 4th 1850

Wm. L. Fiske (Seal)

Sheriff of Kendall County.

So value received hereby assigns the within certificate
of sale to Sylvester W. Randall 4th May 1850

George W. Youngs (Seal)

8. State of Illinois,
" Kane County & Before, the undersigned a Justice of
" the Peace in and for said County
" personally appeared George W. Youngs to me per-
" sonally known to be the same person who sub-
" scribed and executed the above assignment and ac-
" knowledged the same to be his act & deed. —

" Given under my hand and seal at Osage
" in said County, this fourth day of May A.D. 1850.

" Joseph W. Helm, Justice of the Peace.

" And it is satisfactorily appearing to this Court
" that said certificate of sale above mentioned was
" on the fourth day of May A.D. 1850 fraudulently af-
" signed to one of the Defendants Sylvester W. Randall
" by the Defendant George W. Youngs with the knowl-
" edge & consent of George W. Youngs and with the
" knowledge & consent of Joseph W. Helm with intent
" to cheat, defraud & wrong Jacob Gray, the com-
" plainant in manner & form as charged & alleged in
" said complainant's Bill of Complaint, and that
" the said Defendants Sylvester W. Randall and Joseph
" W. Helm claim some interest or title to the lands men-
" tioned in said certificate made & by virtue of said af-
" signment above, & prior to the interest or claim of
" the complainant Jacob Gray by virtue of his mort-
" gage executed on the sixth day of May A.D. 1850

" All of which more fully appears by the said
" Bill of Complaint and answers thereto and proof
" on file herein to which especial reference is had
" It is therefore ordered & adjudged & decreed by this
" Court that said certificate of sale & the assign-
" ment thereof (being the copies heretofore in this

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been made a part hereof to a publicly held for auction
and sold, as to the complaint, Jacob Gray and his said
Mortgage of the sixth day of May A.D. 1850 - And that
said assignment & certificate to be held subject to the
claim & interest of Jacob Gray in all the premises in
said mortgage & certificate mentioned & described. It is
further ordered, adjudged and decreed by this Court that
the said said Lybrate W. Randall and Joseph N. Helm
their heirs & assigns or assigns shall persons claiming
any title by through or under them, under the virtue
of said Sheriff's certificate of sale, & said assignment
thereof to the lands & ~~premises~~ mentioned in said Sheriff
certificate as assigned, or by any Sheriff's deed executed
in pursuance thereof in any way whatever under said
certificate & assignment - I shall hold said title as ac-
quired subject to all the right title or interest of Jacob
Gray complainant herein under the virtue of his
said mortgage made & executed & delivered to said
complainant by the defendants George A. Gray & Cath-
arine his wife and George W. Loring on the sixth day
of May A.D. 1850 said mortgage mentioned in said com-
plainant's Bill of Complaint filed for Record May 6th
1850 at 5 o'clock P.M. & duly recorded in Book "9"
Pages 103, 104, 105 in the Recorder's Office of Kendall
County being for a part of the same premises describ-
ed in said Sheriff's Certificate of sale to George W. Loring.
And it is further ordered, adjudged & decreed by this
Court that the said Lybrate W. Randall & Joseph
N. Helm their heirs assigns, or assigns be enjoined &
restrained perpetually, from setting up any title by
them acquired to the lands mentioned in said Sheriff's
certificate of sale, to hinder & delay the said Jacob
Gray from enforcing his said mortgage against

any part or parcel of the lands mentioned in said certificate of sale or from setting up any title by said certificate of sale to the prejudice or disadvantage of Jacob Gray, Complainant which he has by virtue of his said mortgage. It is further ordered that the Complainant have & receive of the Defendants George Wysemy, George W. Homing & Sylvester W. Randall his costs in this suit expended & have execution thereon.

Isaac G. Wilson Judge

And thereupon comes the defendant by their attorney in person Gray on appeal to the Supreme Court of this State, which is allowed by them entering into Bond in the penal sum of One Thousand Dollars with Along B. Smith & Nathaniel Stearns as Sureties to be filed in this day —

And afterwards to wit on the 13th day of February A.D. 1854 the following Bond was filed in said cause which is in the words of figures following, to wit:

And whereas afterwards to wit on the 13th day of February A.D. 1854 the following Bond was filed in said cause which is in the words of figures following, to wit:

I know all men by these presents that - we George H Young, George H. Young, Sylvester H. Randall, Joseph H. Helm, Alonzo B. Smith and Nathaniel Stearns are held and firmly bound unto Jacob Gray in the penal sum of One thousand dollars to be paid to the said Jacob Gray his Executors administrators or assigns to which payment we and truly to be made we bind ourselves our heirs Executors and Administrators jointly and severally firmly by these presents. Stated with our seals and dated this seventeenth day of January eighteen hundred & fifty four

Whereas at a Special term of the Kane County Circuit Court on the chancery side thereof begun and held at the Court House in Genoa in said County of Kane on the sixteenth day of January A.D. 1854 and now in session, in a certain cause in said Court in which Jacob Gray is complainant and George H. Young, George H. Young, Sylvester H. Randall & Joseph H. Helm are defendants judgment has been given and final decree entered therein in favor of said Jacob Gray and against the said defendants from which said judgment and decree the said George H. Young, George H. Young, Sylvester H. Randall & Joseph H. Helm have prayed an appeal to the Supreme Court of the State of Illinois Now therefore the condition of this Obligation is such that if the said George H. Young, George H. Young, Sylvester H. Randall & Joseph H. Helm shall duly prosecute said appeal and shall well and truly pay the judgment, costs interest and damages in case the said judgment and decree shall be affirmed then the above Obligation to be void otherwise to remain in full force

In presence of
J. A. Ferguson

George. ^{his} N. Young Esq
George ^{junior} N. Young Esq
Joseph. W. Nelson Esq
Alonzo B. Smith Esq
Bathamel Stearns Esq
Sylvester W. Randall Esq
by Joseph W. Nelson his atty in fact

and attached to the foregoing bond is the following
Power of Attorney in the words & figures following to wit

Know all men by these presents that I
Sylvester W. Randall impleaded with George. N. Young and
others in certain suit in which Jacob Gray is plaintiff
in the circuit court of Kane County have made constituted
& appointed and by these presents do make constitute and
appoint Joseph W. Nelson my true and lawful attorney
for me and in my name place and stead to make all
motions take all orders and decrees in any such cases in said
Kane County circuit court in which I the said S. W. Randall
am a party and to pray all appeals and to sign any
and all appeal bonds necessary for the taking of any or all
of the courses to the Supreme court as fully perfectly
and completely and to all intents and purposes as if
myself had done the same and my name to sign
to all petitions motions or other things he may deem necessary to
my defence in any or all of the said cases hereby ratifying
and confirming all that my said attorney may do in
the premises as fully and completely as if myself
had done the same Given under my hand
and seal this seventeenth day of January A.D. 1857

S. W. Randall Esq

13 State of Illinois Jas I. Luther Dearbon Clerk of
Kane County the Kane County Circuit Court do
hereby certify that the above and foregoing is a full perfect
and complete copy of the Deed and Appeal bond in
the above entitled case as appears from the Records of
the files of my said Office.

In Witness Whereof I have hereunto set
my hand & the seal of said Court in Genoa
in said County this 16th day of June AD
1854

Luther Dearbon
Clerk

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Sylvester M. Randall et al.
vs.
Jacob Gray

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Filed July 7th 1854
L. Leland Clk.
By P. H. Leland Secy

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