

The Record and proceedings in this cause were accordingly made out and transmitted to the Court of Appeals of the State of Maryland
March 28th 1865 ~

Just Charles Manly Clerk

And afterwards the following proceedings were had to wit ~

Petition

Lycourgus N. Phillips
Ex^r of the last will of
Noah Phillips dec^d
vs
Charles Wolfe et al.

N: 3131 Equity ~

In the Honorable Madison Nelson Circuit
Judge for the Fourth Judicial Circuit of the State
of Maryland sitting in the Circuit Court for
Frederick County in Equity ~

The Petition of Lycourgus N. Phillips of Frederick County, State of Maryland Executor of the last will and testament of Noah Phillips late of said County, deceased ~ States that heretofore he filed his original and supplemental Bill in your Honorable Court, against the heirs of a certain Abraham Wolfe therein mentioned, and a certain Isaac E. Pearson praying among other things for the sale of certain premises mortgaged by a certain Isaac Wright and wife, to the said Noah Phillips the Petitioner testator, and by said Isaac Wright and wife conveyed to a certain Abraham Wolfe, and by said Abraham Wolfe by said Isaac Wright sold to said Isaac E. Pearson, but not conveyed, the purchase money not being paid - to which Original and Supplemental Bill said Isaac E. Pearson filed his answers, admitting the facts and denying the validity of said Mortgage for the reasons therein set forth - That decree pro confesso was taken pro confesso against the non resident defendants therein named, and an interlocutory decree taken against the defendants therein, who had been summoned and failed to appear and answer ~

That testimony was taken, and the Cause submitted to your Honor in argument of Counsel, and your Honor filed an opinion in said Cause dismissing said Bill, but did not pass a decree dismissing said Bill, from which opinion your Petitioner appealed - as by the proceedings in said Court filed in said Cause well fully appear. Your Petitioner further states that the said appeal was dismissed by the Court of Appeals at April Term 1867, on the ground that no final decree had been passed, which dismissal of the Appeals of your Petitioner or appear from a Copy thereof, herewith marked A.

Your Petitioner further states that since the filing of the Original bill and the supplemental bill, he has discovered in addition to the facts charge in said Original and supplemental bill, that Isaac Wright as then agent of said Abraham Wolfe, sold the property described in Exhibit 5 and Exhibit 6, in said Cause, to Isaac E. Pearson for the sum of seven hundred and fifty, or Eighteen hundred dollars, upon the express agreement, that out of the proceeds of said sale, and as part of the purchase money thereof, he, the said Isaac E. Pearson should pay to the said Noah Phillips - the amount of claim, secured or intended to be secured by said Mortgage or supposed Mortgage referred to in said Bill as Exhibit No 5 - and that said Isaac E. Pearson by an instrument in writing signed by him, admitted that of the debt so intended to be secured and paid by him out of the purchase money, there was due on the first of April in the year Eighteen hundred and fifty four, the sum of Thirteen hundred and seventy nine dollars and fifty seven cents; of which sum, the said Isaac E. Pearson on the 4th day of July 1854 paid said Noah Phillips, seven hundred dollars, and that said Isaac E. Pearson has failed and refused to pay, out of the residue of his pur-

Exhibit A
Is Petition

Amended B