

No. 4317 Equity

Joshua Toms
 Jacob Toms & wife
 Isaiah J. Toms & wife
 & Thomas Clagett

To the Honorable the Judge of the Circuit Court for Frederick County, sitting as a Court of Equity.

Bill of Complaint

The Bill of Complaint of Joshua Toms of Frederick County, respectfully shews unto your Honor, that heretofore one Jacob Toms being indebted to your Complainant in the sum of thirty two hundred and ninety six cents by his promissory note for said amount bearing date the 1st day of April, A. D. 1875 payable on demand, in order to better secure to your Complainant the payment of the said sum of thirty two hundred and ninety six cents with interest the said Jacob Toms & Mary Toms his wife, did, on the 17th day of April, A. D. 1875 by their deed of Mortgage of that date, convey to your Complainant all of the undivided one third part of all that House & Lot of Ground situated in Middletown in Frederick County, which was conveyed to said Jacob Toms by Isaiah J. Toms & wife by deed, a copy of which is filed herewith marked Exhibit No. 1, and which said deed of Mortgage was executed with the condition annexed that it be void upon the payment by said Jacob Toms of said sum of money, with interest, as will fully appear by a certified copy of said Mortgage filed herewith marked Exhibit No. 2, and which, with all other exhibits herewith filed, is prayed to be taken as part of this Bill of Complaint as fully as if here inserted in words and figures—

And your Complainant charges that no part of said Mortgage debt has been paid to him, although demand has been made for the payment of the same, but the whole of said debt with interest is still due and unpaid—

Your Complainant further alleges that the other undivided two thirds of said House & Lot of ground, was owned, and possessed by said Isaiah J. Toms, whom the 17th day of February A. D. 1875, conveyed the same to Mary C. Toms, by way of Mortgage, to secure to said Mary C. Toms, the sum of Twenty three hundred & eighty & 2/4 or dollars, then due and owing from said Isaiah J. Toms to said Mary C. Toms, as will appear by a copy of said Mortgage filed herewith, marked Exhibit No. 3; that said Mortgage from Isaiah J. Toms to Mary C. Toms was subject to the lien of a prior Judgment, confessed by said Isaiah J. Toms to your Complainant in the Circuit Court for Frederick County a copy of which is filed herewith marked Exhibit No. 4, and which said Judgment is still outstanding and unsatisfied except so far as the same appears by said Exhibit No. 4; that subsequently, to wit, on the 30th day of Sept. A. D. 1875, a certain Thomas Clagett obtained a Judgment in the Circuit Court for Frederick County against said Isaiah J. Toms and said Jacob Toms for the sum of Five hundred and ninety five & 7/100 dollars with interest from date and \$10⁰⁰ costs of suit, as will appear by a copy of said Judgment filed herewith marked Exhibit No. 5, that upon said Judgment the said Thomas Clagett procured a writ of Fieri Facias to be issued to John Sweadner Esq, the then Sheriff of Frederick County, who levied upon the supposed interests of said Isaiah J. Toms and Jacob Toms in said House & Lot and sold the same at public sale to said Thomas Clagett for the sum of ten dollars, and the said John Sweadner, Sheriff, by his deed of conveyance of the 30th day of May, A. D. 1877, undertook to convey to said Thomas Clagett, all the interests of said Isaiah J. Toms and Jacob Toms

Exhibit