

New Jersey Court of Errors and Appeals.

IN CHANCERY OF NEW JERSEY.

Between

WILLIAM O. PRICE, complainant,

and

MOSES WARD and wife, defendants,

} *Bill to foreclose.*

} *Filed January 6,*

} 1854.

The bill in the above cause is an ordinary bill to foreclose a mortgage, and sets out, that William T. Ingraham, of the city of Newark, in the county of Essex, on the 23d day of May, A. D. 1836, being indebted to Elisha Whitaker, of said city, in the sum of \$401.81, gave Whitaker his note, of the above date, for \$229.31, payable at nine months, with interest, and also his bond, of same date, in the penal sum of \$349, conditioned for the payment of \$172.50, in two years from date, with lawful interest, payable half-yearly; and that further to secure the payment of said money, according to said note and 10 bond, he executed and delivered to Whitaker a mortgage on a lot in Newark, lying on the southerly side of Walnut-street, 30 feet front by 95 feet deep, designated as lot No. 8, on a map of property conveyed to James Jacobus and Ziba H. Kitchen by said Whitaker and wife: and the bill alleges that said mortgage was acknowledged on the 3d day of June, 1836, and registered in the clerk's office of Essex county on the 13th day of July, same year, in Book A 2 of Mortgages, pp. 106, 107.

The bill further alleges, that on the 1st of December, 1836, 20 Ingraham conveyed the mortgaged premises to James Jacobus and Ziba H. Kitchen, by a deed of conveyance of that date, subject to the said mortgage; and that afterwards, on the 19th of June, A. D. 1837, Jacobus released and quit-claimed his interest therein to Kitchen, by a deed of release of that date, subject to the said mortgage; and that afterwards, on the 19th

day of June, A. D. 1837, Kitchen and wife conveyed the said premises to the defendant, Moses Ward, by a deed of conveyance of that date, subject to the said mortgage.

The bill expressly charges, that all and every of said deeds of conveyance and release were made and delivered after the registry of the mortgage, and with full knowledge thereof, and under and upon an express agreement and understanding that the grantees of the said deeds and release, respectively, were to pay and discharge the mortgage in relief of the grantors,
 10 and that if defendants have any interest, it is subject to said mortgage.

The bill further states, that on the 1st day of January, 1843, Elisha Whitaker was declared a bankrupt by a decree of the District Court of the United States for the district of New Jersey, bearing date on or about the day and year last aforesaid, and that Charles T. Gray was thereupon then duly appointed by the said court the assignee of the said assignee of the said Elisha Whitaker, as such bankrupt; and that afterwards, on
 20 on the 17th day of July, A. D. 1843, the said assignee sold and assigned the said notes and bond and mortgage to David A. Hayes; and that, on the 15th day of December, 1843, the said Hayes assigned the same to Henry K. Ingraham; and that, on the 18th day of April, 1844, Henry K. Ingraham assigned the same to the complainant.

The bill then alleges that the notes and bond and mortgage had not been paid, with the other usual allegations and prayers.

IN CHANCERY OF NEW JERSEY.

The answer of Moses Ward and Fanny his wife, defendants,
 30 *to the bill of complaint of William O. Price, complainant.*

These defendants answering say, they are informed and believe, and therefore admit, that the said promissory note, bond and mortgage, on which the said bill of complaint is founded, were given, executed, and delivered, and that the said

mortgage was acknowledged and recorded as in the said bill is stated and alleged; and that such mesne conveyances of the lot of land and premises covered by said mortgage were made as therein also is alleged, except, that it is not true, as stated in the said bill of complaint, that the deed of conveyance from William T. Ingraham to James Jacobus and Ziba H. Kitchen, in the said bill mentioned, was not made subject to the said mortgage, but was a full warranty deed, with a covenant, on the part of the said William T. Ingraham, to the effect that there was no encumbrances of any kind whatsoever on the said mortgaged premises at the time of giving said deed, and with the other usual covenants contained in a warranty deed, whereby it became the duty of the said William T. Ingraham to pay off and discharge the said note, bond and mortgage. 10

And these defendants further answering say, that they have been informed, and believe it to be true, that the said William T. Ingraham was, by a decree of the District Court of the United States for the district of New Jersey, declared a bankrupt at the time for that purpose alleged in said bill of complaint, and that the said Charles T. Gray, in the bill named, was appointed the assignee of the said William, as stated in the said bill; but these defendants have no knowledge, information, or belief that the said Charles T. Gray assigned the said note, bond, and mortgage to David A. Hayes, in the said bill named, or that the said David A. Hayes assigned the same to the said Henry K. Ingraham, in the said bill named, or that the said Henry K. Ingraham assigned the same to the said complainant; on the contrary, these defendants believe and charge, that if any such assignments were made they were colorably made, and are a fraud on these defendants. 20 30

And these defendants further answering say, they are informed and believe, and therefore charge the truth to be, that at the said assignee's sale of the effects of the said Elisha Whitaker, the said note, bond and mortgage were bid off and bought in by or in behalf of the said William T. Ingraham, in order to the discharge of the same, as it was his duty as aforesaid to discharge and satisfy the same; and that the said securities were afterwards, if they were assigned at all as aforesaid, kept on foot and assigned as aforesaid for the purpose of fraudulently setting the same up as an encumbrance on the 40

said mortgaged premises, after having really become the property of the said William T. Ingraham, and either in law or equity satisfied and discharged in his hands.

All which things these defendants are ready to aver, maintain, and prove, and pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

JOSEPH P. BRADLEY,

Solicitor and of counsel with the defendants, Moses Ward and wife.

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Essex county, ss.—Moses Ward and Fanny his wife, being duly sworn say, that the facts, matters, and things in the foregoing answer contained, so far as they relate to their own acts and deeds are true, and so far as they relate to the acts and deeds of other persons, they believe them to be true.

MOSES WARD,

FANNY WARD.

Sworn and subscribed before me, at Newark, this 31st day of March, A. D. 1854.

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AMZI DODD, *M. C.*

The second suit between the same parties is founded upon a bill filed at the same time as the *first* bill, January 6th, 1854, to foreclose another mortgage, given by William T. Ingraham, and dated the 23d day of May, 1836, to secure the payment of his note of that date for \$229.31, payable in twelve months, with interest, and his bond of the same date for \$133.25, payable in two years, with interest.

The mortgage was upon another lot, on the south side of Walnut-street, in Newark, 26 feet front, and 95 feet deep, being Lot No. 2 on said map before mentioned. The latter mortgage was also duly acknowledged and registered. The bill then alleges, that, on the 1st of December, 1836, Ingraham, the mortgagor, conveyed the lot to James Jacobus and Ziba H. Kitchen, subject to the mortgage; and that, on the 19th of June, 1837, Jacobus released to Kitchen; and that, in the 19th of June, 1837, Kitchen conveyed to Moses Ward, the defendant, and that both deeds were subject to the said mortgage.

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The bill then contains an express allegation, as in the other bill, that the said conveyances and release were made subject to the mortgage, &c.

The bill then states the bankruptcy of Elisha Whitaker, and the appointment of Charles T. Gray as his assignee, as in the other bill; and that Gray, the assignee, on the 7th July, 1843, sold and assigned the last mentioned note, bond and mortgage to David A. Hayes; and that, on the 15th December, 1843, Hayes assigned them to Henry K. Ingraham; and that, on the 18th April, 1844, Henry K. Ingraham assigned the same to 10 the complainant.

The bill states the nonpayment of the money, &c.

The same answer was made in this case which was made in the other, and only one set of proofs was taken in both cases.

The notes were not exhibited. The bonds and mortgages described in the said bills, respectively, were exhibited, and the various assignments thereon were proved by the subscribing witnesses thereto.

TESTIMONY.

Examination of witnesses and making exhibits, on the part of 20 the defendant, in a cause depending in the Circuit Court of the county of Essex, and state of New Jersey, wherein William O. Price is complainant, and Moses Ward and wife are defendants; taken before me, Garret C. Schenck, one of the masters and examiners in the Court of Chancery of said state, at my office in the city of Newark, on the fifteenth day of October, in the year one thousand eight hundred and fifty-five, in the presence of Alexander C. M. Pennington, esq., solicitor and of counsel for the said complainant, and of Joseph P. Bradley, esq., solicitor and of counsel for the 30 said defendants.

Three warrantee deeds, the first, made by William T. Ingraham to James Jacobus and Ziba H. Kitchen, dated Decem-

ber first, in the year one thousand eight hundred and thirty-six ; the second, made by James Jacobus to Ziba H. Kitchen, dated January nineteenth, in the year one thousand eight hundred and thirty-seven ; the third, made by Ziba H. Kitchen and wife to Moses Ward, dated June nineteenth, in the year one thousand eight hundred and thirty-seven, offered by the counsel of the defendants, are marked, respectively, *Exhibits A, B, and C*, on part of the defendants.

The examination was then, by consent of counsel, adjourned
 10 to the twenty-second day of October, instant, at nine o'clock
 A. M., upon which day it was further adjourned to the nine-
 tenth day of November, instant, at three o'clock P. M.

Andrew Lemassena, of the city of Newark, in the county
 of Essex, and state of New Jersey, a witness produced on
 the part of the aforesaid defendants, being duly sworn, depo-
 seth and saith, that he resided in the city of Newark in the
 year eighteen hundred and forty-three. *Exhibits A and B*, in
 both cases, being shown to witness, he says, that the endorse-
 ments of assignment to Henry K. Ingraham are in his hand-
 20 writing on the bond for one hundred and twenty-two dollars
 and fifty cents, and the corresponding mortgage, except the
 name of Henry K. Ingraham and the date ; the assignments
 to Henry K. Ingraham of the other bond and mortgage are in
 the handwriting of David A. Hayes, I believe ; I had the pos-
 session of these bonds and mortgages—I owned them once—
 that was in eighteen hundred and forty-three, along about the
 date of those assignments to Henry K. Ingraham, I believe I
 owned them at the time of those assignments. One of them I
 purchased of Moses B. Martin—am not certain which one—
 30 think it was the one for one hundred and seventy-two dollars
 and fifty cents ; I do not remember the circumstances attend-
 ing the purchase of the other—I think I bought it of David
 A. Hayes ; I procured those bonds and mortgages for myself ;
 I had not been requested by any one to get them before I got
 them ; I disposed of them to Henry K. Ingraham—I do not
 remember when, but think about the date of those assign-
 ments to Henry K. Ingraham, and by those assignments.

Quest. What tookplace between you and him at the time

of your selling him those bonds and mortgages? [Question objected to on the ground that it cannot be proved by parol that any other arrangement or agreement was made other than that contained in the assignments themselves, and that the defendants have no interest in that question.]

Some time prior to the transfer of those papers, I apprized Mr. Ingraham that I had possession of them, meaning by that the ownership, stating that I thought it would be the interest of his brother, whose obligations they were, to secure them, and named to him a price that I would take for them; I think 10 he gave me for answer, that he would write to his brother respecting them, and subsequently, when prepared to treat for the purchase of them, proposed to purchase the bonds only; I sold them bonds and mortgages, and had the assignments made as they appear; he offered a less price for the bonds alone than I asked for the bonds and mortgages; he gave me, I believe, one hundred dollars—fifty dollars each.

Quest. When he finally took them, did he profess to have communicated with his brother on the subject? [Objected to.]

Ans. He did.

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Quest. Did he profess to buy them for himself or his brother? [Objected to.]

Ans. For his brother, William T. Ingraham.

Quest. Where did he represent that he got the money from which he paid for them? [Objected to.]

Ans. He stated to me that his brother William was poor, and that his partner, Mr. Price, would have to pay the money; I do not know the first name of Mr. Price; I believe Mr. William T. Ingraham had been his clerk, and about that time was taken in as his partner; I do not know that, but 30 have such an impression; I do not know where William T. Ingraham resides at this time—I think he was then residing at Augusta, Georgia.

Quest. When Henry K. Ingraham paid for the money for the bonds and mortgages, did you understand from him whether it was his own money, or whether he had got it from some one else, and who? [Objected to.]

Ans. I do not remember that he said the very money he paid me was got from Mr. Price or not; that Mrs. Price was to furnish the money for his brother, he told me a number of 40 times.

Cross-examined.—Being shown a paper writing, dated Newark, January nineteenth, eighteen hundred and forty-seven, marked *Exhibit K*, he says—that letter is in my handwriting, and was written and sent by me to William O. Price, Augusta, Georgia, at the time it bears date. I have no interest whatever in the event of this suit that I know of. The mortgaged premises are part of the property known as the Whitaker property, and consisted of nine acres and thirty-two hundredths of an acre of land. I did purchase, in connection

10 with others, a part of this property about eighteen hundred and thirty-six; I believe Ziba H. Kitchen, with me or some others, purchased part of the said property; there was an encumbrance upon the property at the time, which neither of us knew of; my purchase and that of Kitchen did not embrace the whole of the said property, but about three acres—I think less—leaving a residuum of about six and a half acres; Joseph L. Wheeler purchased a tract lying below Garden-

20 street, containing about two acres; prior to this two building lots had been sold—one to Arnold Stivers, and the other to Ezra Whitehead; the residue remained in Mr. Whitaker, and passed to his assignee in bankruptcy or was sold under execution—I think the latter; I disposed of the part purchased by myself and others to parties in New York; the mortgage upon the property, anterior to our purchase, was purchased by parties here and foreclosed; I was a party in interest in the purchase of the property under the foreclosure; all the property was sold under the foreclosure, except fifteen lots on the south side of Walnut-street, bought by Kitchen and others, as before mentioned; and the lots bought by Stivers and

30 Whitehead, together with several others bought by Kitchen and others, had been released, and were not ordered sold under the said foreclosure; the residue of the fifteen lots bought by Kitchen and others were included in the decree, but excepted at the sales, for the reason, that Kitchen and his counsel appeared, and claimed the exception on the ground that they had given warrantee deeds for those lots; there was nothing aside from the general equities of the parties which entitled them to that exception, as I know of.

No agreement had been made, to my knowledge, on the

40 part of the owners of the Willets mortgage, or on the part of

the purchasers under the foreclosure thereof, or by me or the parties with whom I was a purchaser of the fifteen lots on the north side of Walnut-street, to except those lots on the south side of said street purchased by Kitchen and others; I was so situated that I think I should have known if they had been.

A. LEMASSENA.

Taken, sworn, and subscribed before me, this 19th day of November, A. D. 1855.

G. C. SCHENCK, *M. C.*

The examination of the above witness, Andrew Lemas- 10
sena, is by consent of counsel, taken as applicable to and to be used in both cases wherein the said William O. Price is complainant, and Moses Ward and wife are defendants.

G. C. SCHENCK, *M. C.*

Ziba H. Kitchen, of the city of Newark, in the county of Essex aforesaid, a witness produced on the part of the defendants aforesaid, being duly sworn according to law, deposeth and saith. [The examination of this witness objected to, for the reason that he is interested, as appears by the foregoing examination and exhibits.]—I am acquainted with Wil- 20
liam O. Price, the complainant, and with William T. Ingraham. They are partners, or have been for some time, and have been partners a number of years, but cannot say how long. They are doing business as partners at Augusta, Georgia; I never knew of any dissolution. *Exhibit A* on the part of the defendants being shown to witness, and the two mortgages, marked, respectively, as *Exhibits B* on the part of the complainant, he says—the property in the deed is the same as in the two mortgages; I have heard William O. Price and William T. Ingraham say that they were partners together. 30

Z. H. KITCHEN.

Taken, sworn to, and subscribed before me, this 19th of November, A. D. 1855.

G. C. SCHENCK, *M. C.*

It is agreed by the counsel of the respective parties that the evidence of the above witness shall be used in both cases spoken of aforesaid.

G. C. SCHENCK, M. C.

10 Examination of witnesses had before me, Timothy P. Ranney, master, &c., at my office in Newark, September 29th, 1856, on the part of the complainants, on due notice given, service whereof was admitted in presence of Garret C. Schenck, on behalf of complainant, and Joseph P. Bradley, on behalf of defendants.

William T. Ingraham, a witness produced on the part of complainants, being duly sworn, doth depose and say—I am a brother of Henry K. Ingraham, deceased. There was no correspondence, that I know of, between me and my brother in relation to the purchase of two bonds and mortgages given by me to Elisha Whitaker; I never authorized him in any way to purchase them for me; I had no interest whatever in that purchase. I am a partner with Mr. Price, the complainant—I have been such partner since July, 1843; it is in the clothing 20 business at Augusta, Georgia; it embraces no other kind of business.

Quest. Was there ever an agreement between you and Mr. Price, your partner, that he should pay the money for those bonds and mortgages on your account? [Question objected to as leading.]

Ans. There was none.

Quest. Did you suppose that you had any interest in those bonds and mortgages? [Question objected to.]

Ans. I did not.

30 The witness being cross-examined, says—I had been in the employ of Mr. Price about three years before I went into partnership with him; the partnership commenced from the first of July, but was not formed until some time after the first, during the month; a partnership had been contemplated for some time. I do not know whether I was in partnership

with Mr. Price when my brother purchased these bonds and mortgages, or not; I suppose I was in Augusta when he purchased them. I am no relation of Mr. Price; I do not know that my brother Henry was any relation to him; I am not aware that my brother Henry had any dealings with Mr. Price, except Mr. Price bought goods of him; I can't call the day or time when he bought goods of him, but goods were purchased of him after I went into partnership with him. My brother Henry's business was manufacturing clothing here in Newark; he was in that business in 1843, 1844, 1845, and until he died; 10 he did not sell us goods all that time, but only one year, I think—I cannot name that year; I can't tell how many goods he sold us that year—I do not remember that he sold us more than one lot. I believe that he sold goods to Mr. Price before I went into partnership with him, but don't know how many; I should think it was in 1841 or 1842, he sold to some extent to Mr. Price, but to what extent I can't remember—this was while I was clerk for Price. My brother Henry had no other relations with Price, except that of dealing with him in goods, that I know of. My brother Henry had no store at the South, 20 I think; he disposed of his goods upon orders at different places in the southern states. I was at one time in partnership with my brother Henry, in 1835, in Newark, in making customers' clothing. I can't remember when I first heard of my brother Henry having obtained these bonds and mortgages. I very seldom corresponded with him in 1843 and 1844, but I did sometimes, usually a family correspondence; that correspondence was not preserved, that I know of; I have not lately made a search for that correspondence. I did hear that he bought the bonds and mortgages; I don't remember particularly 30 who I heard it from, nor how long after he purchased them—I heard of it, I think, in 1843; I heard, the same year, of Mr. Price having purchased them; I lived in Augusta at that period; Mr. Price's business was there, and he was there most of the time—his family lived at Elizabethtown; he came on twice a year, usually, to purchase goods, spring and fall. I think I heard from himself (Mr. Price) that he had bought these bonds and mortgages; my impression is that he said he gave one hundred dollars for the two.

Witness being asked how Mr. Price came to speak to him 40 about them, says—"Well, I don't know."

He did not say that he had bought them for me; I don't remember of his saying that I would now be clear of the bonds; I don't remember of his saying that they were bought for that purpose, that I might be clear of those bonds; I don't think he ever said anything to that effect—nothing of that kind was talked over between us—nothing was said, that I know of, how he should get that hundred dollars back. I was not charged with that hundred dollars on partnership account—I had no right to be—there was no reason talked of in the matter
10 that I know of. Mr. Price did not ask me to pay the amount of those bonds and mortgages at that time; he did not ask me to pay anything upon them; he has never asked me to pay anything upon them. I am not in debt to the partnership; the partnership, I presume, is solvent.

Quest. How much is the partnership worth after paying its debts, I mean the partnership between you and Price? [Objected to.]

Ans. It may be worth more or less, I can't say exactly—it is worth one thousand dollars—I believe it to be worth two
20 thousand dollars.

Being asked whether he believed it to be worth three thousand dollars, the witness says—"I object to answering any such question as that."

Being asked whether he believed it to be worth ten thousand dollars, [complainant's counsel objects] witness says—"I object to answering that question."

Being asked what was the amount of his interest in the partnership, witness says—"I shall object to any question of that sort; I shall decline answering the question."

30 *Quest.* Is not your interest in the partnership concern between you and Mr. Price sufficient, and more than sufficient, to pay the amount of these bonds and mortgages? [Question objected to by complainant's counsel.]

Ans. I decline answering that question.

Quest. Why have these bonds and mortgages been kept in Mr. Price's name?

Ans. Because he owns them—that is the only reason I know of. Nothing has ever passed between us on the subject of their being kept in Mr. Price's name. Conversations have frequently
40 passed between him and me on the subject of those bonds and

mortgages—I don't remember when exactly—it is since he has had them. We did not have frequent conversations about them about the time of his getting them ; I never talked with any counsellor about them since Mr. Price had them, and have had no correspondence with any lawyer about them ; I have had no correspondence or conversation with my brother Henry since he bought them ; I may have had some conversation with him about them when I was here on a visit ; I do not remember any such conversation.

Quest. Are you able to pay those bonds and mortgages? 10
[Question objected to.]

Ans. I decline answering that question.

Quest. Are you abundantly able to pay those bonds and mortgages without inconvenience to yourself? [Objected to.]

Ans. I decline answering that question.

The name of the firm of our partnership is William O. Price & Co. We have no other place of business except at Augusta ; our goods are manufactured at New York ; they are manufactured by McGrath, Tweed & Co. and Blackwell, Bayles & Co. I am not concerned in those firms—my partner 20 is not, to my knowledge. I came to Newark this morning from Elizabethtown ; I have been at Elizabethtown since Saturday night last ; I stayed at my partner's house ; I had previously been in New York since the nineteenth day of August ; I have not been there constantly ; I have been to Vermont, Connecticut, Massachusetts, and sundry other places.

Direct examination resumed.—Mr. Price usually comes on in January or February, sometimes earlier and sometimes later, and stays from one month to a longer period. The first year after our partnership was formed, I think, he was absent 30 about three months ; he left to come North in the month of August, I think the first part of the month ; he returned in December ; he left again in the spring for the North ; he staid one year in Augusta, it was in 1840 or 1841 ; I can't say when he left in the spring after our partnership, probably in January or February. There was no conversations between us as to the purchase of those bonds and mortgages before he left, nor any communications by letter after he left and while he was absent ; I don't recollect how long he was absent—I presume 40

two months. After his return that spring, I think he remained in Savannah and Augusta until July, 1844. I can't remember the time when Mr. Price and I held a conversation on the subject of the bonds and mortgages.

Quest. When he first spoke to you about them, what answer did you make? [Objected to.]

Ans. I don't remember. These bonds and mortgages were not, nor was either of them, purchased by Mr. Price out of any funds in his hands belonging to me; they were not, nor
10 was either of them, purchased out of the partnership funds by my knowledge or consent.

Quest. Was the consideration of the purchase of these mortgages, or either of them, or any sum of money charged to you in partnership account or on partnership books on account of the purchase of these bonds and mortgages, or either of them, with your knowledge or consent, or was there ever any arrangement between you and Mr. Price that it should be so done?

Ans. There was not.

20 *Quest.* Was the consideration of the purchase of these mortgages, or either of them, by Henry K. Ingraham made out of any funds in his hands belonging to you?

Ans. It was not.

WM. T. INGRAHAM.

Sworn and subscribed before me, at Newark, this 29th day of September, A. D. 1856.

T. P. RANNEY, *M. C.*

EXHIBIT A,

ON THE PART OF THE DEFENDANTS.

30 This indenture, made the first day of December, in the year of our Lord one thousand eight hundred and thirty-six, between William T. Ingraham, of the city of Newark, in the county of Essex, and state of New Jersey, of the first part, and James Jacobus and Ziba H. Kitchen, of the city of Newark, in the county of Essex, and state of New Jersey, of the second

part, witnesseth, that the said party of the first part, for and in consideration of the sum of twelve hundred and twenty-five dollars, lawful money of the United States of America, to him in hand well and truly paid by the said party of the second part, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part therewith fully satisfied, contented, and paid, hath given, granted, bargained, sold, aliened, released, enfeoffed, conveyed, and confirmed, and by these presents doth give, grant, bargain, sell, alien, release, enfeoff, convey, and 10 confirm to the said party of the second part, and to their heirs and assigns for ever, all those lots, tracts, or parcels of land and premises, herein after particularly described, situate, lying, and being in the city of Newark, in the county of Essex, and state of New Jersey, FIRST lot beginning on the south side of Walnut-street, at the distance of four hundred and sixteen feet from the corner of lands of J. W. Granniss and others, and running along said street south, sixty-four degrees and fifteen minutes east, twenty-six feet; thence south, twenty-four degrees and forty minutes west, one hundred feet; thence north, 20 sixty-four degrees and fifteen minutes west, about twenty-one feet, to lot number one; thence along the line of lot number one, a southerly course, about one hundred feet, to said street and place of beginning, being known and designated on a map of the premises as lot number two: SECOND lot, being known and designated as lot number eight, beginning on the south side of Walnut-street, two hundred and ten feet from lands owned by J. W. Granniss and others, and running south, twenty-four degrees and forty minutes west, one hundred feet; thence north, sixty-four degrees and fifteen minutes west, 30 thirty feet; thence north, twenty-four degrees and forty minutes east, one hundred feet to said street; thence along the same south, sixty-four degrees and fifteen minutes east, thirty feet, to the place of beginning—together with all and singular the houses, buildings, trees, ways, waters, profits, privileges, and advantages, with the appurtenances to the same belonging or in any wise appertaining. Also, all the estate, right, title, interest, property, claim, and demand whatsoever of the said party of the first part of, in, and to the same, and of, in, and to every part and parcel thereof: to have and to hold all and 40

singular the above described tract or lot of land and premises, with the appurtenances, unto the said party of the second part, their heirs and assigns, to the only proper use, benefit, and behoof of the said party of the second part, their heirs and assigns for ever. And the said William T. Ingraham doth, for himself, his heirs, executors, and administrators, covenant and grant to and with the said party of the second part, their heirs and assigns, that he, the said William T. Ingraham, is the true, lawful, and right owner of all and singular the above
 10 described land and premises, and of every part and parcel thereof, with the appurtenances thereunto belonging: and that the said land and premises, or any part thereof, at the time of sealing and delivery of these presents, are not encumbered by any mortgage, judgment, or limitation, or by any encumbrance whatsoever by which the title of the said party of the second part, hereby made, or intended to be made, for the above described land and premises, can or may be changed, charged, altered, or defeated in any way whatsoever. And also, that
 20 the said party of the first part now hath good right, full power, and lawful authority to grant, bargain, sell, and convey the said land and premises in manner aforesaid. And also, that the said William T. Ingraham will warrant, secure, and for ever defend the said land and premises unto the said James Jacobus and Ziba H. Kitchen, their heirs and assigns for ever, against the lawful claims and demands of all and every person, and persons freely and clearly freed and discharged of and from all manner of encumbrances whatsoever.

In witness whereof, the said William T. Ingraham hath hereunto set his hand and seal the day and year first above
 30 written.

WILLIAM T. INGRAHAM, [SEAL.]

Signed, sealed, and delivered in the presence of
 JACOB S. SMITH.

[This deed was duly acknowledged on the 23d of December, 1836, and recorded the 24th of January, 1837, in book U 4 of Deeds in Essex county clerk's office, pp. 122, 123, and certificates of such acknowledgment and recording were duly endorsed on the deed.]

The other DEEDS, *viz.* the deed from James Jacobus to Ziba H. Kitchen, dated January 19th, 1837, and marked *Exhibit B*, on the part of the defendants, and the deed from Ziba H. Kitchen to Moses Ward, dated June 19th, 1837, and marked *Exhibit C*, on the part of the defendants, conveyed the same lots, 2 and 8, and were warranty deeds.

The several ASSIGNMENTS endorsed on the bonds and mortgages were as follows, that is to say :

As to Lot No. 2.

1. Charles T. Gray, the bankrupt assignee of Elisha Whitaker, 10 to David A. Hayes, dated July 7th, 1843.
2. David A. Hayes to Henry K. Ingraham, dated December 15th, 1843.
3. Henry K. Ingraham to William O. Price, dated April 18th, 1844.

As to Lot No. 8.

1. Charles T. Gray, assignee, to Henry K. Ingraham, dated December 14th, 1843.
2. Henry K. Ingraham to William O. Price, dated April 18th, 1844.

The other DEEDS, viz. the deed from James Jacobus to
Nico H. Kijndert, dated January 1817, and another
deed from A. J. on the part of the 6 defendants, and the deed from
Nico H. Kijndert to Moses Ward, dated June 1817, and
another deed from C. on the part of the 6 defendants, and
the same from S and R, and some warranty deeds.

The several ASSIGNMENTS mentioned in the above and
mentioned were as follows, that is to say:

No. 1 to Vol. 2.

- 1. Charles F. Gray, the bankrupt assignee of Charles Winkler, to
David K. Price, dated July 7th 1812.
- 2. David A. Hayes to Henry K. Ingraham, dated December
18th 1812.
- 3. Henry K. Ingraham to William O. Price, dated April 18th
1812.

No. 2 to Vol. 2.

- 1. Charles F. Gray, assignee, to Henry K. Ingraham, dated
December 18th 1812.
- 2. Henry K. Ingraham to William O. Price, dated April
18th 1812.

Wm. O. Price, esq.

Dear sir,

At the request of H. K. Ingraham (to whom I assigned the two bonds and mortgages, made by his brother,) I write you in regard to them. Proceedings have been terminated in law, which leave those bonds and mortgages first and only liens on the lots they cover, which are worth \$100, each. Z. H. Kitchen has been playing a game to obtain the claim, so as to place the property unencumbered in possession of his father-in-law, who holds the titles. I received \$100 for the obligations, and if you will forward them to me, I can make the property refund you the money, and also pay me well for the trouble. I wish you would enclose the papers to H. K. Ingraham (with instructions), who will act with me in the matter.

Yours,

A. LEMASSENA.

Newark, January 19th, 1847.

Faint title text, possibly a name or subject.

Faint text line below the title, possibly a date or location.

Faint text on the right side of the page.

At the request of H. K. Ingraham (in whom I
resided the two years and months, nearly by his brother)
I wish you to attend to them. - I understand have both been
called in law, which leaves those bonds and mortgages that are
not taken for the lot next to them which are worth \$100 each.
I understand has been offered a sum to obtain the same.
So to raise the property unsold in possession of the
Ingrahams, with the sum of \$1000 for the same.
I wish you will let me know if you can take the
same, I will let you know the way to pay the well for the
same. I wish you would enclose the papers to H. K. Ingraham
with the bonds, who will see all in the matter.

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Faint text block, possibly a list or detailed notes.

Faint text block at the bottom of the page.