

8773

No. _____

Supreme Court of Illinois

Victor Buckanan et al

vs.

John Ross

Pleas held at Lawrenceville, before the
Honorable the Circuit Court, in and for the
county of Lawrence in the State of Illinois at
the April Term AD 1830.

Be it remembered that on the 12th day
of April AD 1830. Victor Buchanan and James
Vandermark filed by Constable & Harrow their
solicitors filed in the clerk's office of the Circuit
Court in and for said county of Lawrence
their Bill in Chancery, against John Ross
Cashier &c, and which Bill in Chancery is
in the words and figures following, to wit.

" To the Honorable Justin Harlan,
" Judge of the Circuit Court in and for the
" county of Lawrence and State of Illinois,
" at the April Term AD 1830.

" In Chancery Setting:

" Humbly representing, Shew unto your Honor
" your orators Victor Buchanan and James
" Vandermark, of the county and state aforesaid
" That sometime in the month of February, AD,
" 1848 they became sureties for a certain William
" Baldwin then a resident of said county,
" but now deceased, to enable him to negoti-
" ate a loan from the Branch Bank of the
" State Bank of Indiana, at Vincennes for
" the sum of Twenty Five hundred dollars,
" That the note executed for the payment
" of the same, was payable four months from

" its date - That at the time when the said
" note became payable, to wit, in the month
" of June A.D. 1848 the said Baldwin called
" upon your orators stating his inability to
" meet the said payment, and asking their
" names to renew the same, That thereupon
" they executed another note for that pur-
" pose, which had four months to run and
" which they supposed would be paid at
" maturity - That on or about the 12th day
" of October A.D. 1848, the said Baldwin called
" upon your orator Buchanan to sign another
" note to again renew, stating to him
" that it was his purpose to obtain the signa-
" ture of your orator Vandermark, That your
" orator Buchanan then signed this third
" note, relying upon his procuring said
" Vandermark's signature thereto, Your orators
" shew that they heard no more of this mat-
" ter, nor thought of the same until sometime
" in the month of March A.D. 1849, when the
" said Baldwin terminated his own life, from
" as was supposed pecuniary embarrassment,
" when a conversation between your orators
" divulged the fact that the said last note
" signed by your orator Buchanan had never
" been presented to the said Vandermark for
" his signature - That this together with infor-
" mation that a note of the said Baldwin
" with your orators as sureties was due and
" unpaid at said Bank led your

" orators to suppose that a forged note had
" been used, so far as Vandermark's signature
" was concerned at the said supposed see-
" ound renewal. Receiving no notice, however,
" your orators did nothing in the matter, ex-
" cept an inquiry made by the said Van-
" dermark at the Bank, whether they held a
" note against your orators, until sometime in
" the month of November 1869, when hearing
" having received notice from the Bank, they
" attended at the office of the Bank to endeavor
" to adjust the matter, and prevent suit.
" That without particularly examining
" the note claimed to be held against them,
" your orators laid before the directors of the
" Bank their note for the sum of Twenty
" one hundred and thirty four dollars dated
" the 12th day of November 1869, and due
" one hundred and twenty days after date,
" That at ~~that~~ the meeting of the Directors
" said note was received, and the note
" which it was intended to liquidate transmitt-
" ed to your orators by mail - Your orators further
" shew that still ignorant of anything extra-
" ordinary connected with the said note they
" were surprised to find that the date of the
" same had been changed without their knowl-
" edge or agent in any manner given or obtain-
" ed from June to October, and shew the court
" that this knowledge was obtained for the first
" time after the giving their said last mention-
" ed note to discharge it, and prevent suit

" upon it, and upon inspecting the same when
" received as aforesaid from the Bank,

" Your orators further shew, that still
" ignorant of the effect of the said alteration in
" the date of said note, they proceeded to endeavor
" or to save themselves by compelling the pay-
" ment of the money due the Bank by the ad-
" ministrators of the said Baldern, two proceedings
" for which purpose are now pending in this
" honorable court.

" Your orators further shew your Hon-
" or that John Rep, the cashier of the said
" Bank has instituted a suit against your
" orators upon their note, which suit is now
" pending and undetermined in this court, and
" upon which judgment is sought at this term
" of this court.

" Your orators further therefore charge
" that the said note executed by William
" Baldern on the 9th day of October A.D. 1828
" was not executed at that date by them,
" but that the same so far as they appear to
" be parties to it was dated and executed in
" June 1828 and was presented by the said
" Baldern paid Five hundred dollars to the
" Bank, together with four months interest on
" Twenty Five hundred dollars at the time when
" executed by your orators. That the Directory
" of the Bank refused to discount or accept it,
" unless the said Baldern paid Five hundred
" dollars upon the note sought to be renewed

" That when this determination was had the
" said Baldwin was in the East, and the
" matter remained unadjusted until he re-
" turned, and that then, not procuring the
" signature of the said Vandermark to the
" said second renewal, the said Baldwin
" and the said Officers of the Bank colluding
" together, without the knowledge or consent
" of your orators, changed and altered the
" said date from the 26th day of June 1848 to the
" ninth (9th) October 1848, thereby seeking to
" charge your orators wrongfully, and without
" their knowledge.

" That the said John Rep, Cashier do and
" the said William Baldwin were guilty of gross
" fraud and collusion in so altering and caus-
" ing the said note to be altered, and that the
" same by reason of the said ~~alteration~~ ^{alteration}
" became and was void and invalid in law
" against your orators.

" That the said altered note being void
" and invalid in law as against your Orators,
" the said note of the 12th November 1849 was
" without consideration, and void by reason
" of the fraudulent character of the pretend-
" ed consideration thereof.

" Your Orators further aver their readi-
" ness to dismiss the proceedings instituted by
" them as aforesaid, upon the direction of
" this honorable ^{Court} & surrender to defendant his said
" note in their possession.

Wherefore in consideration of the premises

and to the end that the said John Ross cashier
may be made defendant to this your ora-
tors Bill of complaint exhibited against him
and that he may be compelled true, full
and perfect answer to make under oath
touching all and singular the matters and
things, averred, contained and set forth in
their said bill, as fully and particularly
as if ~~thereunto~~ ^{thereunto} especially interrogated, and
that pending the hearing of this cause an in-
junction may be entered upon the records of
this court, staying all further proceedings in
the said suit instituted on the common
law side of this court by the said John Ross,
cashier &c against your orators for the recovery
of the amount claimed to be due on their said
note of the 12th November AD 1869. - and that
on the final hearing of this cause your Honor
may order, adjudge and decree that the said
injunction be made perpetual, and that the
said note be declared void and of no effect
in law as also the said altered note in-
tended to be discharged thereby, and that the
said John Ross, cashier &c, and all persons
acting for, by, or under him be forever enjoined
from in any manner charging or collecting
from your orators, their administrators or le-
gal representatives any sum or sums of money
whatsoever on pretence of any claim growing
out of, or connected with the said altered
note, or that executed by your orators in

“ And now at this day come the
“ said complainants by their attorney, and
“ it appearing to the court that the said John
“ Rop has not filed his answer herein accord-
“ to the order made at the last term of this
“ court, and the said John Rop being further
“ called but ~~not~~ coming not, nor shewing
“ to this court anything now in answer to
“ the allegations & matters set forth and a-
“ versed in said complainants bill, It is
“ ordered and decreed by the court here, that
“ the same be taken for confessed as against
“ the said defendant Rop, And this cause now
“ coming on for final hearing upon bill &
“ exhibits and the court being satisfied
“ touching the equity of this cause, It is there-
“ upon finally ordered and decreed by the
“ court, that the injunction decreed here-
“ in at the last term of this court be and
“ the same is hereby made perpetual, and
“ the said John Rop ~~as~~ also all persons
“ acting by through or under him be forever
“ barred, and restrained from further pro-
“ ceedings in the said suit at law, and en-
“ forcement of the payment of the said note
“ against the said Buchanan & Vandermere,
“ as well also from the enforcement & collec-
“ tion, as against & from them, of the said or-
“ iginal note, in consideration of which the
“ said note sued on was executed, and
“ that both of the said notes as well that

“ executed by the said Buchanan and Van-
“ dermark as that which purports to have
“ been executed by them as co-makers with
“ William Baldwin in his life time, be and
“ the same are hereby declared void and
“ of no force in law as against the said
“ Victor Buchanan Sen and the said James
“ Vandermark, It is further ordered that the
“ said John Ross have leave to withdraw the
“ said original note, by the said bill
“ tendered him, as a voucher against the
“ estate of the said William Baldwin de-
“ ceased, It is further ordered and decreed that
“ the said complainants recover from the
“ said defendant their costs about this suit
“ expended and that they therey have exe-
“ cution &c

State of Illinois, Lawrence County of
I Frederick A Thomas, Clerk of
the Circuit Court of said county certify that the
foregoing transcript of the cause Victor Buchanan
Sr. et. al. vs John Rofs, is a true and complete
copy of the ^{record} proceedings in said cause as appears of
record in my office

Witness my hand, and seal
of said office at Lawrence-
ville this Eighth day of
November A.D. 1851.

F. A. Thomas Clerk

State of Illinois Nov Term Sup Court 1851.

John Rofs cash
v
Victor Buchanan &
James Vandermark } Error to Lawrence

And now at this day came plaintiff by
Scates his attorney & says that in the record & proceedings &
in the rendition of ^{the decree} ~~the judgment~~ against plaintiff, manifold
errors have intervened, and for assignment of error the said
plaintiff assigns the following causes -

First There was no summons in Chancery in this cause, if served
served - and plaintiff did not enter his appearance
Second The court rendered a decree against plaintiff of perpetual
injunction & of cancellations of said notes & for costs
Third There is no equity in said bill - because all the matters

therein set forth, are matters that Defts might set up
in defence of a recovery at law

Fourth There was no bond for the injunction required or
given

Fifth The injunction ought to have been dissolved - and the
bill dismissed & a decree in favor of plaintiffs for costs

Wherefore for these & other errors in the record & proceedings
he prays that the Decree be reversed & for nothing
estimated & that he recover his costs &c

Walter P. Seates, for plff
& Mitchell

Victor Buchanan & J
James Vandermark
vs
John Rep. Cashier &c

Filed the 12th day
of November, 2 o'clock
P.M. - 1857

Princy D. Preston
Clerk

8773

State of Illinois, }
SUPREME COURT. } ss.

The People of the State of Illinois,

To the Sheriff of the County of

Lawrence

GREETING:

We command you that of the goods and chattels, lands and tenements of *Victor Buchanan*
and *James Vandermark* in your County

you cause to be made the sum of

_____ Dollars and _____ Cents damages, and

the sum of *ten* _____ Dollars and *ninety six* Cents

costs in the said Supreme Court, which *John Ross, Cashier &c.*

lately recovered against *them* before the Justices of our said Supreme Court, as appears
to us of record, and make return hereof in ninety days.

Witness, the Hon.

Chief

Justice of the Supreme Court, and the seal thereof, at *Spring Mt.*

Vernon ~~field~~, this *24th* day of *February*

in the year of our Lord, one thousand eight hundred and

fifty two —

Pinney D. Preston
Clerk of the Supreme Court.

April 17th 1852, This Execution Returned Satisfied
and the money sent by mail to H. W. Preston
Clerk of Supreme Court at Mt Vernon Ill
herewith enclosed, J. P. Polk Shff. Ill.

Supreme Court.

John Ross, Cash^r &c

vs.

V. Buchanan, et al

Execution.

Damages

Costs \$10.95

8773

Filed 1852

This Execution came to hand by Feb'y 26th 1852
at 10 o'clock A.M.
D. W. W. Shiffill