

No. 8834

Supreme Court of Illinois

Sargent

vs.

Howe, et al,

71641  7

CHARLES A. SARGENT,
vs.
ORLANDO B. HOWE,
DAVID B. MORGAN, and
GEORGE W. SEAMAN.

SUPREME COURT OF ILLINOIS, FIRST GRAND DIVISION,

Error from St. Clair.

- RECORD, Page 1. Comp't., who is plaintiff in error, filed his bill, alledging that Howe executed to one Morgan 3 notes for
" 2. \$500, \$500 and \$100, payable, the first in 9, the 2d in 15 and the 3d in 18 months from date, dated the
" 3. 28th March, 1857, together with a deed of trust to Seaman in the usual form, with power to sell in case
" 4. either note was not paid, to secure the payment of said notes—that Howe is insolvent, and that Seaman
accepted the trust—that the first two notes were assigned by Morgan to comp't.—that Seaman, though
" 5. notified of the assignment and required to sell (in writing) refuses so to do, and is in conspiracy with Mor-
gan to defraud complainant.
" 6. Prays that another trustee be appointed and for general relief.
" 7. General Demurrer
" 11. Demurrer sustained—and bill dismissed and exception taken.
" 17. Exhibits of deed of trust and written notice to trustee and notes.

The case is brought to this court by writ of error and plaintiff assigns for error:

- 1st, That the court below erred in sustaining the demurrer to his bill.
2d, The court below erred in not rendering a decree in behalf of said complainant.

UNDERWOODS

Solicitors for Pl'tff. in Error.

BRIEF.—1, A deed of trust may be treated as a mortgage and foreclosed in chancery as such. R. L. of
1845, 105, Sec. 12; 1 How U. S. R., 312, Pierce on R. R., 520, n. 5, U. S. Cond. R., 652, Marrott vs.
Givens, 8 Alabama R., 697.

2, It may be foreclosed where one installment is due, 2 Hill. on M., 106 to 109; 2 John. C. R., 486;
17 Ills. 261-1.

3, On application of the assignee of one of the notes which it is given to secure, Lead. C, in Eq., Part
2, Vol. 2, p. 449; Story's Eq., P. Sec., 201, Cullum vs. Erwin, 4 Alabama R., 452.

3. On application of the assignee of one of the notes which is in favor to secure, I vend. O. in Pa. Err.

IN THE 281-1.
2. It may be disclosed where one installment is due, & Hill. on M. 109 to 109; & 109n. C. R. 420;

Given, & ...
1890, 109, Dec. 12; How U. S. R. 318; ... on H. R. 630, n. & M. S. Cond. R. 623; ...
Banks— ... deed of trust may be treated ... as a mortgage and foreclosed in entirety as such. R. 1. of

8834

HENDERWOODS
Solicitors for Hill. in Error.

Sargent
by
Howe et al

1st. That the ... error entered in ... the demurrer to his bill.
The case is ... to the court by writ of error and plaintiff assigns for error:
Exhibits of deed of trust and written notice to trustee and notes.
Demurrer sustained—and bill dismissed and execution return.
General Demurrer.
Tricks that another trustee be appointed and for removal relief.
Bill to declare complete.

3. either note was not paid, to secure the payment of said notes—that Howe is indebted, and that ...
2. 20th March, 1897, together with a deed of trust to ... in the usual form, with power to sell in case
1. 2800, 2300 and 2400 ... the first in 3, the 2d in 12 and the 3d in 12 months from date, dated the
Incorp. 1896. 1. Comp. f. who is plaintiff in error, filed his bill, alleging that Howe executed to one ... note for

GEORGE W. SEAMAN,
DAVID R. MORGAN, and
ORLANDO R. HOWE,
CHARLES A. SARGENT,

Plaintiffs in Error. }
Error from 2d Cir.
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