Maryland Frederick County Sct

I hereby certify that the foregoing is truly taken from the Record of Proceedings of the Circuit Court for Frederick County sitting as a Court of Equity in No 2886 on the Equity Docket of said Court.

In testimony whereof I hereunto subscribe my name and affix the Seal of the said Circuit Court for Frederick County sitting as a Court of Equity this 13th day of November A.D. 1864.

(Seal)

B. G. Fitzhugh Clerk of the Circuit Court for Frederick County.

And now come into the Court of Appeals here as well the said Jacob M Kunkle by Joseph M Perrin Esq his Attorney as the said Peregrine Fitzhugh and others by John P Poe Esq their Attorney and thereupon on motion of the said Peregrine Fitzhugh and others by their Attorney aforesaid it is ordered by the Court here that the said Jacob M Kunkle assign the errors in the Record of proceedings aforesaid or in the giving the Decree aforesaid so as aforesaid sought before the Court of Appeals here for correcting the errors supposed to be therein or Decree by the Court of Appeals here and to enter against him by default thereof and the said Jacob M Kunkle by his Attorney aforesaid says that in the Record of proceedings aforesaid and also in the giving of Decree aforesaid there is manifest error in this to wit that by the Record aforesaid it appears that the Decree aforesaid in the cause aforesaid given was given for the said Peregrine Fitzhugh and others against the said Jacob M Kunkle whereby the law of the land that Decree ought to have been given for the said Jacob M Kunkle against the said Peregrine Fitzhugh therefore in that there is manifest error and he prays that the Decree aforesaid for that error and others being in the Record of proceedings aforesaid may be reversed annulled and held entirely as void, and that he the said Jacob M Kunkle may be restored to all things which he hath lost by occasion of the said Decree and that the said Peregrine Fitzhugh and others may return to the errors aforesaid and so forth

And thereupon it is ordered by the Court of Appeals here that the said Peregrine Fitzhugh and others form in the errors by the said Jacob M Kunkle above assigned in the Record of proceedings aforesaid or Decree by the Court of Appeals here will be rendered against them in default thereof, and the said Peregrine Fitzhugh et al by their Attorney aforesaid say that there is no error in the Record of proceedings aforesaid nor in the giving of the Decree aforesaid and they pray that the Court of Appeals look and proceed to the Examination as well of the Record of proceedings aforesaid as of the matters aforesaid by the said Jacob M Kunkle above for error assigned, and that the said Judgment may in all things be affirmed and so forth Thereupon further process of and upon the premises between the parties aforesaid is by virtue of an act of Assembly in such cases made and provided continued before the Court of Appeals here until the first Monday in June next the same day is given to the said parties there then to hear the Decree of the Court of Appeals here of and upon the said premises and so forth.

Which said first Monday in June being the second day of the said Month in the year of our Lord 1863 came again into the Court of Appeals here the parties aforesaid by their Attorneys aforesaid

but because the Court of Appeals here are not yet advised what Decree to give of and upon the premises, a day therefor is further given to the parties aforesaid, with the consent of the said parties by their Attorneys aforesaid to come before the Court of Appeals here on the first Monday in December next to hear the Decree of the Court of Appeals here of and upon the premises. For that the Court here as yet are not so.

Which said first Monday in December being the first day of the said Month in the year of our Lord 1863 came again into the Court of Appeals here by the parties aforesaid by their Attorneys aforesaid.

Whereupon this cause was regularly continued from Term to Term until the fourth Tuesday of January 1865.

And now at this day to wit the said fourth Tuesday in January being the 24 day of the said Month in the year of our Lord 1865 came again into the Court of Appeals here the parties aforesaid by their Attorneys aforesaid Whereupon as well the Record and proceedings aforesaid and the Decree given in form aforesaid as the matters aforesaid by the said Jacob M Kunkle above for error assigned being seen and by the Court of Appeals here fully understood, fully and mature deliberation thereupon had for that it appears to the Court of Appeals here that there is no error in the Record of proceedings aforesaid nor in the giving of the Decree aforesaid. Therefore it is considered by the Court of Appeals here that the Decree aforesaid given in form aforesaid be in all things affirmed and stand in full force and effect the said causes for error above assigned and alleged in any wise notwithstanding. And it is further considered by the Court of Appeals here that the said Peregrine Fitzhugh and others have execution against the said Jacob M Kunkle as well by the sum of sixteen dollars and forty cents for their costs and charges aforesaid adjudged unto them in the said Circuit Court for Frederick County as also the sum of $139.56 cents adjudged unto the said Peregrine Fitzhugh and others by the Court of Appeals here in their assent for their costs and charges which they sustained by occasion of the delay of the execution of the Decree aforesaid by pretext of the prosecution of the said appeal by the said Jacob M Kunkle for the correcting of errors and upon the premises as aforesaid prescribed &c

Thereupon the Court of Appeals here passed their Decree which is in the words and of the tenor following to wit.

Jacob M Kunkle vs Peregrine Fitzhugh Sarah M Fitzhugh his wife and Sophia Fitzhugh

Court of Appeals

January Term 1865.

The appeal in this cause having been argued by the Counsel of the respective parties, and the proceedings therein having been read and considered,

It is thereupon this 15 day of March in the year of our Lord 1865, by the Court of Appeals of Maryland and by the authority thereof adjudged ordered and decreed that the Order of the Circuit Court for Frederick County from which this appeal was taken be and the same is hereby affirmed with costs to the appellees.