

SECURITY CO. *V.* CHRISTY *ET AL.*

Circuit Court, S. D. Iowa, C. D.

December 12, 1887.

Bill for Foreclosure of Mortgage.

Kauffman & Guernsey, for complainant.

Phillip's & Day, for defendants.

SHIRAS, J. The bill in this cause was filed for the purpose of foreclosing a mortgage executed by "William Christy to William Bolles to secure the payment of the sum of \$4,000, payable November 1, 1884. In 1881, after the execution of the mortgage, Christy sold the land to one Couch, who is made a defendant. At different times payments of amounts sufficient in the aggregate to discharge the mortgage debt were made by Christy & Couch to H. R. Creighton, of Des Moines; the same being made before the date of the maturity of the loan. The conclusions reached in the case of *Security Co. v. Richardson, ante*, 16. are decisive of this cause. The Security Company does not claim to be the beneficial owner of the note and mortgage. It is merely a trustee for William Bolles. The evidence shows, as, is held in the *Richardson Case*, that Bolles had constituted H. R. Creighton his agent in Iowa, with authority to collect the amounts due him and to receive payment thereon before, as well as after, maturity. The payments made to Creighton were therefore, in effect, made to Bolles, and hence, when this suit was brought, there was nothing due complainant or William Bolles. Decree must therefore be for dismissal of bill on the merits, at cost of complainant.