1834-018 SOUTHAMPTON COUNTY CHANCERY PAPERS

GARDNER et al VS. GARDNER et ux et al

10/1834

other SURNames: Moore

To the worshipful the County Court of Southampton in Chancery sitting. Humbly complaining, shewe unto your worships your orator and oratrix George W. Gardner, Harriet M. Gardner, Isaac O. Gardner, Elizabeth M. Gardner, Louisa F. Gardner, & Margaret A. Gardner, that ~~sometime in the year~~ living by Littleton Moon their next friend, that sometime in the year 1832 Jeremiah Gardner of the said County departed this life leaving several infant children, that is to say, your orator and oratrix, and a widow, that is to say, Rhoda Gardner, who sometime in or about the month of may in the year 1834 intermarried with one Randolph B. Gardner of the said county. And your orator and oratrix further represent that the said Jeremiah Gardner, at the time of his death, was seized and possessed of a considerable real and personal estate, and left a last will and testament, an attested copy whereof is herewith filed and prayed to be considered as a part of this bill, by which said last will and testament the said testator appointed his wife, the said Rhoda Gardner and Littleton Moon executors, the latter of whom subsequently qualified pursuant to law. And your orator & oratrix further represent that the said testator, by his said last will & testament, devised all the real and personal estate of which he died seized and possessed to his wife during her life or widowhood; and in the event of her subsequent marriage, he directed all the said estate to be equally

divided, share & share alike, between all his living children, that is to say, your orator and oratrix. And they further represent that after the death among considerable other property thus devised, was two tracts of land containing in the whole two hundred & sixty acres more or less, and three negro slaves, that is to say, Sam, Hannah & Aggy; which said land and slaves upon the death of the said testator the said Rhoda Gardner entered upon and possessed herself of, and still retains the possession and benefit of. And they further represent that in consequence of the marriage of the said Rhoda R. Gardner with the said Randolph R. Gardner as aforesaid she has excluded herself from any further use or benefit of the said land and slaves, since the only condition upon which she could hold them was that she would not again intermarry, which she has failed to comply with. And being so thereof advised, your orator and oratrix have made frequent application to the said Randolph R. Gardner & Rhoda his wife, and urged them to aid them in effecting a division of the said land (the value of which they are is not equivalent to three hundred dollars a share) and slaves pursuant to the direction of the said testator. And your orator and oratrix were hopeful that their requests would have been acceded to as in justice and equity they ought to have been. But now so it is the said Randolph R. Gardner & Rhoda his wife have hitherto wholly refused to comply with their reasonable requests. In tender consideration whereof and for as much as your orator & oratrix are without remedy in the premises except by the assistance of a court of equity: To the end therefore that the said Randolph R. Gardner & Rhoda his wife, and the said Littleton Moon who as aforesaid, who are hoped to be made defendants to this suit, may, upon their several corporal oaths, true and perfect answer make to all and singular the premises herein before mentioned, & that as fully & perfectly as if the same were again repeated and interrogated; that the said defendants may be directed to come to an account with your orator & oratrix in regard to the slaves before mentioned, and to pay over to them what upon such account may appear to be due to them under the will of the said testator; that the said land and slaves may be directed to be sold and the proceeds thereof to be paid over to your orator and your orators in the proportions to which they are entitled by law; and that such other and further relief in the premises may be decreed by this worshipful court as may seem meet. May it please &c

Hodges, S. & J.

The Joint & separate answer of Randolph R. Gardner & Rhoda his wife and Littleton Moon to the bill of complaint exhibited against them in this worshipful court by George W. Gardner & others infants suing by Littleton Moon their next friend — These respondents saving & reserving to themselves &c for answer say, that so far as they are advised

The allegations charged in the said bill of complaint are substantially true & correct — and having answered it may be hence dismissed with their Costs.

George W. Gardner Pet.
vs
Randolph R. Gardner Def.

This cause came on this day to be heard on the bill and answer, and exhibits filed, and was argued by Counsel; on consideration whereof, The Court, being of opinion that the said lands & places mentioned in the bill of complaint are liable to division, and as may to that object, should be sold, doth adjudge, order and decree, that Lyle Parker, Thomas Brown and Leftha Darden, any two of whom being authorized to act, be appointed Commissioners; that they proceed to set up at public sale, after having given twenty advertised the time and place of such sale for at least twenty days at the Court house door of the County of Southampton, and at three other public places in the said County, all the land and slaves of which the said Dominick Gardner of the said County died seized and possessed, together with the increase of the females of said slaves; that they divide the proceeds arising from such sale into six equal parts, three parts whereof they will pay over to David D. Savage, that is to say, one part to him as guardian of George W. Gardner, one as guardian of Harriet M. Gardner, and the other as guardian of Isaac O. Gardner; that they allot the other three parts to Randolph R. Gardner, that is to say, one part to him as guardian of Elizabeth M. Gardner, one as guardian of Louisa F. Gardner, and the

117

Geo. N Gardner Dec.

v. Ch.

Rand. R. Gardner Adm

Hodges

1834 Aug: decree confirmed &

Geo. H. Gardner dal.
Rand. H. Gardner dal.

This cause came on this day to be heard on the bill & answer and exhibits, and was argued by counsel; on consideration whereof, the Court, being of opinion that the said lands & slaves in the bill of complaint mentioned are liable to division, and, as necessary to that object, should be sold, doth adjudge, order and decree, that Jesse Parker, Jeptha Darden, and James Moore be appointed Commissioners to carry into effect the requirements of this decree; that they sell at public sale (except what may be necessary to support the infirm & this suit) upon a credit of nine months, the purchasers giving bonds with approved security, after having advertised the day and place of such sale for at least twenty days at the door of the Court house of the said County of Southampton, and at three other public places in the said County, all the lands ~~and slaves~~ (including the reversionary interest of the children of Mrs Gardner dower estate) and slaves of which the said Decimah Gardner died seized and possessed, together with the increase of the females of such slaves; that they apportion the nett sum arising from such sale into six equal parts for each of which they will require of the purchaser bond with approved security, the of which bonds they will require to be made payable to George H. Gardner or his guardian, the to be payable to Harriet H. Gardner or her

guardian, one payable to Isaac O. Gardner or his guardian, one payable to Elizabeth M. Gardner or her guardian, one payable to Louisa F. Gardner or her guardian, and one payable to Margaret A Gardner or her guardian; and that they make short de-

Gardners

vs Z Chesapeake

Gardner Danl &c

For Commissioners

Southampton August Court 1834.

George A Gardner Harriet M Gardner Isaac E Gardner, Elizabeth M Gardner, Louisa F Gardner and Margaret A Gardner suing by Littleton Moore their next friend. Pltffs

against

Randolph R Gardner and Rhoda his wife & Littleton Moore Defts } In Chancery

This cause came on this day to be heard on the bill and answer and exhibit filed and was argued by Counsel: On consideration whereof, the Court, being of opinion that the said Lands and Slaves in the bill mentioned are liable to division, and, as necessary to that object, should be sold, doth adjudge, order and decree, that Jesse Parker, Josephus Darden, and James Moore be appointed Commissioners to carry into effect the requirements of this decree: that they sell at public sale upon a credit of nine months except what may be necessary to defray the expenses of this suit and commission the purchasers giving bonds with approved Security after having advertised the day and place of Sale for at least twenty days at the door of the Courthouse of the said County of Southampton, and at three other public places in the said County, all the Lands (including the reversionary interest after the expiration of Mrs Gardners life estate) and the Slaves of which the said Jeremiah Gardner died seized and possessed, together with the increase of the females of said Slaves: that they apportion the nett proceeds arising from such Sale into six equal parts for each of which they will require of the purchaser bond with approved Security, one of which bonds they will always require to be made payable to George A Gardner or his guardian, one payable to Harriet Gardner or her guardian, one payable to Isaac E Gardner or his guardian, one payable to Elizabeth M Gardner or her guardian, one payable to Louisa F Gardner or her guardian, and one payable to Margaret A Gardner or her Guardian, and that they make report &c.

Clerks Costs . . $2 32
Law's fee . . . 10.00
$12 32

Teste James Rochelle clk

Gardner &c

v 3 Report

Gardner

1824 Act: Ret's & Confirm &c

In obediense to an interlocutory decree Gardner &c vs Gardner
pronounced by the County Court of Southampton, August Court
1834, and thereunto annexed, - Your Commissioner appointed to
Carry into effect the requirements of said decree, having done
so, beg leave to report as follows:
Having advertised the time and place of sale of the lands and
slaves in the bill mentioned, of which Jeremiah Gardner died
seized and possessed, by four several advertisements, more than
twenty days notice having been given, one of which was
posted up at the door of the Court house of said County; your
Commissioner proceeded, agreeably to said decree, On saturday the
27th day of September 1834 to sell the s^d lands & slaves to
the highest bidder on a credit of nine months except so
much as might be necessary to defray the expences.
We first set up the tract of land called the Nottoway
when George N. Gardner became the last bidder and purcha-
ser for the sum of $200
We next set up the tract whereon the late Jeremiah
Gardner lives including the reversionary interest after
the expiration of Mrs Gardners dower est. when Randolph
R Gardner became the last bidder & purchaser for the
sum of 440 00
We next set up the negro slave named Sam, when
Davis D. Savage became the last bidder and purcha-
ser for the sum of 555 75
We next set up the negro girl named Agnes,
when William Harrison became the last bidder & for the sum of 404 50
and lastly we set up the negro girl named Hannah, when Wm
Harrison also became the last bidder & for the sum of . . 310 00
making the sum total of $1910 25

Amount of sales brot forward 1910 25

your Commissioners then deducts $2.32 the Clks fee $2.32

and the attorneys fee $10.00

and your Commissioners 5 p Cent Commissions . . $95.57

107 83

leaving a balance of $1802 42

which balance being devided into six equal shares

as directed in your decree, gives to each of the

heirs the sum of $300.40/3 Cents; your Commissioners

then proceeded, as directed in the decree, to take bonds

with security from the purchasers:

We took Davis D Savage note with Henning J Smith

his security payable to the Guardian of George M.

Gardner for the sum of $100.40/3 which added to

$200 his purchase money of the Holloway tract of

land makes his full proportional part $300 40/3

We took Davis D. Savages note with Henning

J Smith his security, payable to the Guardian of

Harriett M Gardner for the sum of $300 40/3

We took Wm Harrisons note with James C. Harrison

his security, payable to the Guardian of Isaac O

Gardner for the sum of $300 40/3

We took Wm Harrisons note with James C Harrison

his security payable to the guardian of Elizabeth

M Gardner for the sum of $300 40/3

We took Randolph R Gardner note with Septus

Darden & Jno Cobb his securities payable to the Guard

of Louisa J. Gardner for the sum of $300 40/3

We then took Davis D. Savage & Wm Harrisons and

Randolph R Gardner several notes for the respective

Amt brot forward . . $1502 07/3

balances with their several securities payable to the

guardian of Margaret A Gardner for the sum of 300 40/3

Amounting to . . $1802 42

which will account for the purchase money

aforesaid; all of which is respectfully submitted

to the Court.

Your Commissioners then delivered the said bonds

as they were made payable, to Davis D. Savage and

Randolph R Gardner the guardians for the said

heirs of Jeremiah Gardner dec and took their receipts

for the same.

Given under our hands and seals this

18th day of October 1834. Jesse Parker

James T. Moore