

1839-124 SOUTHAMPTON COUNTY
CHANCERY PAPERS

WHITEHEAD'S EXECUTORS VS. BEALE et al
(12) 1/1839

other surnames: Judkins

1233.

Whitehead, ex^o ⁴ ^{copy 8?}

21. $\frac{3}{4}$ Bile &c
Tho: W. B. B. & Co

~~~~~  
Hodgins

~~~~~  
1838. Apl. - Deeree as for decree filed

1839. Jan. Report ret^d & confirmed

So.ampton Co. Chy.

Benton Whitehead exor &c

vs. 3 Decees -

Memor B. Beale &c.

} In chancery.
}

This cause came on this day to be heard, by consent of parties, on the file of the complainants, answers of defendants, and exhibits filed, and was argued by counsel; On consideration whereof the Court doth ^{appoint} William D. Hodges a special Commissioner to sell the two tracts of land in the title mentioned, and dividing notes thereon, the one as the "Pea Hill tract" containing 183 acres, and the other as the "Anna Larner tract" containing ten acres, to William J. Bryant for the sum of eight hundred dollars, and to lay up, ~~in~~ the money to be cash or secured by notes with good security payable on demand, and execute to the said William J. Bryant good and sufficient conveyances with such covenants only as may serve to bind him and those that may claim under or through him; and that the said Commissioner, when he shall have collected the money, proceed to divide the net balance which may remain after defraying the expenses of this suit, ~~into~~ after the following manner, viz: The money which may arise from the sale of the "Pea Hill tract" he shall divide into one hundred and seventeen parts, and allot a apiece $\frac{48}{117}$ parts thereof to the complainants, as exors of Elliot Whitehead deceased; $\frac{45}{117}$ parts to Content Judkins; $\frac{3}{117}$ parts to the defendant ~~James~~ Thomas B. Beale; $\frac{3}{117}$ parts to the defendant William C. Beale; $\frac{5}{117}$ parts to the defendant Harriet S. L. Beale; $\frac{5}{117}$ parts to the guardian of the infant defendant Margaret P. Beale; $\frac{5}{117}$ parts to the guardian of the infant defendant Armin S. Beale, and the remaining $\frac{7}{117}$ parts to the guardian of the infant defendant Lepe S. Beale: That he divide the money which shall arise from the sale of the "Anna Larner tract" into seventy eight parts, and allot a apiece $\frac{45}{78}$ parts thereof to the plaintiffs, as exors of Elliot Whitehead deceased; $\frac{6}{78}$ parts to the defendant Content Judkins; $\frac{1}{78}$ parts to the defendant Thomas B. Beale; $\frac{3}{78}$ parts to the defendant William C. Beale;

$5\frac{3}{8}$ parts to the defendant Harriet E. L. Beale;
 $\frac{5}{8}$ parts to the guardian of the infant defendant Mar-
garet O. Beale; $\frac{5}{8}$ parts to the guardian of the in-
fant defendant Armin J. Beale, and the remaining
 $\frac{3}{8}$ parts to the guardian of the infant defendant
Lepie D. Beale: And that the said Commissioner
make a report of his proceedings to this Court in
order to a final decree. Liberty is however awarded
to the infant defendants to come in after they shall
attain full age and set aside this decree on
showing good and sufficient cause therefor.

To the Worshipful the Justices of the County Court
of Southampton, in chancery sitting:

Humbly complaining, shew unto your wor-
ships your orator Thomas G. Benton and William
B. Whitehead, sons of the last will and Testament
of Elliot Whitehead deceased, that some great
many years ago a certain Richard Whitehead
of the said County departed this life leaving
seised and possessed of a considerable tract or
parcel of land, lying and situate in the said
County, whereof his widow Margaret P. White-
head was duly and legally endowed of one equal
third part; and that the said Margaret P. White-
head, having after married with a certain Joseph D.
Beale, departed this life some time in the
month of _____ in the present year, leaving
a last will and Testament which has been duly
admitted to record by the County Court of said Coun-
ty, in which, with the exception of some trifling
pecuniary legacies, she devised and bequeathed
all her estate to her daughters hereinafter na-
med; by reason of whose death the said land
devoted to her in right of dower becomes liable
to division among the heirs of the said Richard
Whitehead. And your orator further shew that
the said Richard Whitehead left three children
and heirs at law, namely, Elliot Whitehead, Ed-
gar Whitehead, and Content Whitehead; that the
said Elliot Whitehead departed this life some
time in the month of May last, leaving a
last will and Testament, which has been admit-
ted to record by the County Court of Hampshire
(whereof an attested copy is herewith filed) in
which he nominates and appoints your orator
as executor thereof, and authorises and directs them
to make sale of all his real estate, and they
have duly qualified in that capacity as appears
by an attested copy of the Certificate of probate here-

with filed; that the said Edgar Whitehead also departed this life ^{some time} about the year 1826, intestate, unmarried and without issue, and that the said Content Whitehead, some short time after the death of her the said Richard Whitehead, intermarried with a certain Isaac W. Judkins, who departed this life before the death of the said Margaret P. Beale, the said Content him surviving. And your orators further show that the said Margaret P. Beale, ^{and} ~~Operat~~ ~~the said Margaret P. Beale~~ the following children by her last husband Isiah D. Beale, whom she survived many years, viz: Gilbert H. Beale. (who departed this life some time a few years months before the death of his mother intestate and leaving no issue, ^{as well as in the last of land herein after named} his interest in the said land, having been previously sold under an execution and purchased by a certain William J. Nottingham, and afterwards from the latter by the before mentioned Elliot Whitehead, as appears by attested copies of the deeds of between the said parties herewith filed.) Thomas B. Beale, William C. Beale, Isiah D. Beale, the younger, Harriet E. D. Beale, Margaret P. Beale, and Armin J. Beale. The said Isiah D. Beale, Margaret P. Beale, and Armin J. Beale being infants - all of whom were born in the life time of the said Edgar Whitehead; and that the said Margaret P. Beale, the mother, left a last will and testament as before mentioned by which she devised ~~and bequeathed~~ ~~and before mentioned~~ all her interest in the said land to her said ~~last named~~ daughters Harriet E. D., Margaret P., and Armin J. Beale, as appears by an attested copy of the said will herewith filed. And your orators further show that the said Elliot Whitehead, a few days before his death, to wit, on the 22nd day of May in the present year, entered into a written agreement with a certain William J. Bryant of the County of Southampton, by which in consideration that

The said Bryant would pay the sum of eight hundred dollars "to the heirs", he bound himself ~~to convey~~ "for his part and other heirs to make a bona fide" right in the said land "called Pea Hill containing by estimation 183 acres, and another tract ~~containing~~ called the Anna Lamer tract containing ten acres", to the said William J. Bryant; which said tract of land called the "Pea Hill tract" was the tract allotted to the aforesaid Margaret P. Beale as and for her dower in the estate of her first husband Richard Whitehead as before represented, and the other tract called the "Anna Lamer tract" was a small piece of land ~~which had been~~ which belonged to ~~Elliot~~ the said Elliot and Edgar Whitehead, and which had been conveyed by them to their mother the said Margaret P. Beale for and during her natural life. And your orators ~~for~~ represent, that being advised that both the aforesaid tracts are liable to ~~some~~ division among the several parties interested therein, and being well persuaded from their own knowledge and the information they have derived from others, that it would be to the advantage of the parties to carry into effect the agreement before referred to as the said William J. Bryant was perfectly willing to complete it on his part, they have made repeated applications to the said of the parties as are of full age and to the guardians of the infants, and urged them to consent to ~~consummate~~ the consummation of the said agreement, or at least, as the shares of the infants would amount to nothing like three hundred dollars per share in value, to consent to a sale ~~and division~~ ~~of~~ of the said tracts of land and a division of the proceeds thereof among the several heirs of Richard Whitehead and Elliot & Edgar Whitehead in the proportions they are severally entitled to; but for some reason or other unknown to your orators they have all as yet refused to accede thereto, contrary as your orators believe to

in a spirit of equity and justice. In tender consideration whereof, and for as much as your Honors have no other remedy in the premises except by the assistance of a Court of Equity and Justice; to the end therefore that the said Thomas B. Beale, William C. Beale, Content Ludking, Harriet E. d. Beale, Lefe D. Beale, Margaret P. Beale, and Armin J. Beale - the three last being infants to be defended by a guardian ad litem to ^{be} especially appointed for the purpose may be made parties hereto, and may ~~be~~ ^{be} ~~received~~, upon their several corporal oaths, true and perfect answer make to all the allegations herein contained, and that your worshipps will decree a sale and division of the said several tracts of land in the manner herein before indicated, as well as such other and general relief as may be deemed rightful and proper under the circumstances of the case.

Hodges, J. G.
1881

The Joint Replicate answer of Content Ludking, Thomas B. Beale, William C. Beale, Harriet E. d. Beale, Lefe D. Beale, Margaret P. Beale and Armin J. Beale - the said Lefe D., Margaret P., and Armin J. Beale, being infants, defending the suit by Thomas B. Beale their brother and guardian ad litem appointed by the Court in this case - to the bill of Complaint exhibited against them by Thomas G. Benton William B. Whitehead, executor of Elliot Whitehead deceased. These defendants saving the benefit of all exception &c. for answer to the said bill say - That so far as they know the facts alleged in the said bill are true, and that they are perfectly willing, and even anxious, that the agreement referred to in the bill as having been entered into between Elliot Whitehead and William J. Bryant, ^{shall be carried into effect} by decree of this Court, provided ~~that~~ ^{the Court} not less than the sum specified in the said agreement to be paid by Bryant shall be received, or that the Court may render any other decree which their wisdom may deem right. And having answered they pray to be dismissed with their costs.

The undersigned, Commissioner, acting
in pursuance of the annexed decree, pro-
ceeded to sell the the land referred to in
the bill, and directed to be sold by the said
decree, and did sell it to W. J. Bryant
for the sum of eight hundred dollars,
and after deducting the expenses of the sale
divided the same among the several
parties interested according to their res-
pective proportions, and has taken their
receipts therefor. He has also execu-
ted to Bryant ~~the~~ a deed to Bry-
ant, all of which is respectfully
submitted.

W. D. Hodges, Comr.

Whitehead & Co
or
Beale & Co

For Comr.

420.94
 20.94
 32.72
 32.72
 32.72
 332.17
 20.94
 280.50
 782.58

Jerusalem Va
 May 15th

6

William D. Hodges Esq.

P. Quincy

Southampton County, April Court, 1838.

Thomas G. Benton and William B. Whitehead Executors of Elliot
(Whitehead decd.)

Pltff.

against

In Chancery

Content, Jenkins, Thomas B. Beale, William C. Beale, Harriet C. Beale,
S. Beale, Jesse D. Beale, Margaret P. Beale and Armin J. Beale,
— The said Jesse D., Margaret P. and Armin J. Beale being infants
defending the suit by Thomas B. Beale their brother and guardians
ad litem appointed by the Court in this case

Defd.

This cause came on this day, to be heard, by consent of parties, on the bill of the complainants, answer of the defendants, and exhibits filed, and was argued by counsel on consideration whereof the Court, doth appoint William D. Hoages a special Commissioner to sell the two tracts of Land in the bill mentioned, and designated therein, the one as the "Pea Hill" tract containing 183 acres, and the other as the "Anna James tract" containing ten acres, to William J. Bryant for the sum of eight hundred dollars and no less ~~the~~ the money to be paid in cash or secured by notes with good security, payable on demand, and execute to the said William J. Bryant, good and sufficient conveyances with such covenants only as may serve to bind him and them that may claim under through him; and the said Commissioner, when he shall have collected the money, proceed to divide the ~~balance which may remain after paying~~ the expenses of this suit after the following manner Viz, the money which may arise from the sale of the "Pea Hill tract" he shall divide into one hundred and seventeen parts and allot or assign $\frac{4}{17}$ parts thereof to the complainants as executors of Elliot Whitehead decd.; $\frac{4}{17}$ parts to Content Jenkins; $\frac{1}{17}$ parts to the defendant Thomas B. Beale; $\frac{1}{17}$ parts to the defendant William C. Beale; $\frac{1}{17}$ parts to the defendant Harriet C. Beale; $\frac{1}{17}$ parts to the guardian of the infant defendant Margaret P. Beale; $\frac{1}{17}$ parts to the infant defendant Armin J. Beale, and the remaining $\frac{9}{17}$ parts to the guardian of the infant defendant Jesse D. Beale. That he divide the money which shall arise from the sale of the "Anna James tract" into twenty eight parts, and allot or assign $\frac{4}{28}$ parts thereof to the plaintiff, as coors of Elliot Whitehead decd. $\frac{4}{28}$ parts to the defendant Content Jenkins; $\frac{3}{28}$ parts to the defendant Thomas B. Beale; $\frac{3}{28}$ parts to the defendant William C. Beale; $\frac{3}{28}$ parts to the defendant Harriet C. Beale; $\frac{3}{28}$ parts to the guardian of the defendant Margaret P. Beale; $\frac{3}{28}$ parts to the guardian of the defendant Armin J. Beale and the remaining $\frac{3}{28}$ parts to the guardian of the infant defendant Jesse D. Beale. And that the said Commissioner make a report of his proceedings to this Court in order to a final decree. Liberty is however reserved to the infant defendant defendants to come in after they shall have attained full age and set aside this decree on shewing good and sufficient cause therefor.

A Copy

Lelkes Costs \$2.32

Teste L. R. Edwards clk