1870-034 SOUTHAMPTON COUNTY CHANCERY PAPERS WHITEHEAD vs. JOHNSON 1/1870

other SURNames : Purcell

To the Worshipful County Court of Southampton County
in Chancery sitting, humbly complaining, sheweth to
the court your complainant Wm A Whitehead, that
on or about the day of 1860, Polly Johnson
who was Polly Purcell, departed this life intestate
leaving surviving her husband Arthur Johnson,
& her two children James Whitehead, (your com-
plainant as aforesaid) a child of said Polly by
her first marriage with James Whitehead &
Josephine Johnson child of said Arthur &
Polly Johnson - that said Arthur Johnson
died on or about the day of 1861,
leaving the said William & Josephine him surv-
iving - that said Polly Johnson at the
time of her death was seized in fee simple (being
her maiden property) of a tract of land lying in
said County of Southampton containing by estima-
tion 196½ acres lying adjacent to the lands of the
heirs of John Baskin & the late Johnson tract
that said land on the death of said Polly descend-
ed on the said William & Josephine as her heirs
at law subject to the life right therein as tenant
by the curtesy of the said Arthur Johnson - that by the
death of the said Arthur, the said William & Josephine
are entitled to have partition made between them of
said land, if such partition be practicable & if
not that sale should be made of the same & the
proceeds of sale equally divided between said
Wm & Josephine - that said Josephine is an infant

under twenty one years of age - To tender consideration whereof & so much as your complainant is without remedy at law & can only be relieved by the aid of this worshipful court of Chancery where matters of this sort are cognizable, to this end your complainant prays that the said Josephine Whitehead by some one appointed her guardian ad litem to defend her in this suit may be made a party defendant to this bill & be required to answer the same - & that by the decree of this worshipful court partition may be had of said land between your complainant & said Josephine & partition thereof be made as convenient & if not that the same may be sold & that such other & further relief may be had as comports with the equity of the case & to the court may seem meet & your complainant will ever pray &c

Hayden & J

Whitehead 580 &
vs Chancery
Johnson

Complainant's Bill -

1868. March. Decree as filed
#. Apl. Report.
" July - Decree filed
" Nov: Report.
1869. Feby. Decree to collect
#
1870. Jany. Final decree

Whitehead } In
" Johnson } Chancy

Isaac Atkinson

To the Worshipful County Court of Southampton
in Chancery sitting -
The Answer of Josephine Johnson, infant daughter
of Arthur & Polly Johnson (who was Polly Pucell) by
L. R. Edwards her guardian ad litem to the bill of com
plaint in said court exhibited by William A Whitehead
against her -
This Defendant answering says that she knows not how
of the allegations in said bill contained & that being an
infant under twenty one years of age, she submits her
interests in the premises to the protection of this worship-
ful court - having answered says she hereto to be dismissed
with her costs in this behalf expended & she will ever
pray &c.

Signed - L R Edwards Guar[illegible]

Whitehead
"
Johnson —

North Adams
March Term 1868
To be entered —

William A Whitehead

vs

Josephine Johnson -

This day came the Plaintiff & filed his bill, & on his motion Edwards is assigned guardian ad litem to the infant defendant Josephine Johnson to defend her interests in this suit, & thereupon said guardian ad litem filed the answer of said infant, to which answer the plaintiff replied generally, & the cause coming on to be heard upon the bill, the said answer & general replication thereto, was argued by counsel. On consideration whereof the court doth adjudge ordain & decree that - John C Thomas, James Jones, Hardy Chapman & Jno C Griffin who are hereby appointed Special Commissioners for that purpose, any three of whom may act - proceed to divide into two equal moities having regard to quantity & quality, the land in these proceedings mentioned whereof Polly Johnson wife of William Johnson (formerly Polly Purcell) died seized in the County of Southampton containing by estimation acres lying adjacent to the lands of the heirs of John Baker & the said Johnson tract, & assign one of said moities respectively to Wm A Whitehead & Josephine Johnson & set off said shares by metes & bounds, & if in their opinion such partition cannot be made conveniently, they shall allot the entire subject to such charge of the parties as will accept the

same & pay thereafter to the other such sum of money as the interest of such party may be worth; or if in their opinion the interests of those entitled to the subject or its proceeds, will be promoted by a sale of the entire subject, or allotment of part & sale of the residue, they may report to the court with the reasons on which their opinion is founded. with the present value of the real estate.

Whitehead

v. } Copy Decree

Johnson

Southampton County Court March Term 1868.

William A Whitehead Pff

against. } In Chancery

Josephine Johnson Deft

This day came the Plaintiff and filed his bill, and on his motion L R Edwards is assigned guardian ad litem to the infant defendant Josephine Johnson to defend her interest in this suit and thereupon said guardian ad litem filed the answer of said infant, to which answer the plaintiff replied generally and the cause coming on to be heard upon the bill, the said answer & general replication thereto, was argued by Counsel. On Consideration whereof, the Court doth adjudge, order and decree that John C Thomas James Jones, Hardy Chapman & John C Griffin, who are hereby appointed special Commissioners for that purpose, any three of whom may act, proceed to divide into two equal moities, having regard to quantity and quality, the land in these proceedings mentioned, whereof Polly Johnson, wife of Arthur Johnson (formerly Polly Purcell) died seized in the County of Southampton, containing by estimation 196 2/3 acres, lying adjacent to the lands of the heirs of John Boykin & the Jesse Johnson tract, and assign one of the said moities respectively to Wm A. Whitehead and Josephine Johnson, and set off said shares by metes and bounds. And if in their opinion such partition cannot be made in kind conveniently, they shall allot the entire subject to such one of the parties as will accept the same & pay therefor to the other such sum of money as the interest of such party may be worth: or if in their opinion the interest of those entitled to the subject or its proceeds will be promoted by a sale of the entire subject, or allotment of part & sale of the residue, they will so report to the Court, with the reason on which their opinion is founded, with the full value of the real estate—

A Copy

Teste L R Edwards CC

Whitehead
vs
Johnson

In
Chancery.

Rec'd Clerk's
July Term 1868
to be entered.

1868 July Court.

Wm A Whitehead

vs

Josephine Johnson.

This cause this day came on to be again heard on the papers formerly read on the report of Thos C Thomas, James I Jones, Hardy Chapman & Thos C Giffin, four of the commissioners for Partition under a decree herein of March Term 1868 [illegible] and argued by Counsel, on consideration whereof the Court doth adjudge order & decree that the said report to which no exceptions were filed be confirmed & that C B Hayden who is hereby appointed Special Commissioner for that purpose, proceed to sell at public auction on the premises to the highest bidder on a credit of Six [illegible] Months, with interest from date (except so much for cash as will pay the costs of the suit & of said Sale including a fee of $20.00 to C B Hayden for his services in this cause) after having given at least twenty days notice of the time & place of sale & advertisement at the Court House door of this County on some court-day previous to the day of sale - the land in these proceedings mentioned whereof Polly Johnson formerly Polly Purcell died seized in the County of Southampton, containing by estimation 196½ acres, & adjacent to the lands of the heirs of John Baker & the late Johnson tract - taking from the purchaser for the credit portion a bond payable to himself as Commissioner with sufficient security payable [illegible] Months from date with interest from date, which bond he shall return to Court with his report of his proceedings under

this decree – But the effect of this decree shall be suspended [redacted] sale until the said C B Hyden – shall execute in the clerk office of this court a Bond with sufficient security in a penalty of $1400.00 payable to the commonwealth of Virginia conditioned for the faithful performance of this or any future decree herein –

Southampton County Court July Term 1868.

William A Whitehead Pltff
against
Josephine Johnson Deft } In Chancery

This cause this day came on to be again heard on the papers formerly read and on the report of Jno. C Thomas James G Jones, Hardy Chapman & Jno. C. Griffin four of the Commissioners for partition under a decree herein of March Term 1868 & was argued by Counsel: On Consideration whereof the Court doth adjudge, order and decree that the said report, to which no exceptions were filed be confirmed and that C. B. Hayden who is hereby appointed Special Commissioner for that purpose, proceed to sell at Public auction on the premises to the highest bidder on a credit of Six months with interest from date (except so much for cash as will pay the costs of this suit & of said sale inclusive of a fee of $20. to C. B. Hayden for his services in this cause) after having given at least twenty days notice of the time and place of sale by advertisement at the Courthouse door of this County on some Court day previous to the day of Sale - the land in these proceedings mentioned whereof Polly Johnson formerly Polly Purcell died seized in the County of Southampton containing by estimation 196 2/3 acres, lying adjacent to the lands of the heirs of John Boykin & the Revr. Johnson tract - taking from the Purchaser for the credit portion, a bond payable to himself as Commissioner with sufficient security payable six months from date, with interest from date, which bond he shall return to Court with his report of his proceedings under this decree.

But the effect of this decree shall be suspended as to the sale until the said C. B. Hayden shall execute in the Clerks Office of this Court a bond with sufficient security in a penalty of $1400.00 payable to the Commonwealth of Virginia Conditioned for the faithful performance of this or any future decree herein.

A Copy

Teste L R Edwards Clk

Whitehead

vs } Co. Decree

Johnson

Ette Mc Harris

Filed 24 / 1 / 65 Receipt by C 13 / 8 yds Lace Veil and Shawl Collection Taxes collected

Whitehead
&
Johnson -

Rough Clerks
February Term 1869

Received of the
Clerk of the Court -
the within named
Bond -
C. B. Hayden

Wm A Whitehead
vs
Josephine Johnson

This cause came on this day to be again heard on the papers formerly read & on the report of Sale of Commissioner Hayden under a decree herein of July Term 1868 & was argued by Counsel, on consideration whereof, the Court confirming said report to which no exceptions were filed doth adjudge order & decree that the clerk of this Court deliver to C B Hayden on his filing his receipt therefor the Bond of Irwin Crumpler & Charles B Crumpler for $753.00 payable six months from Sept 22/68 with interest from date returned with the report aforesaid, which Bond the said C B Hayden who is hereby appointed Special Commissioner for that purpose is hereby required to collect & out of the proceeds thereof after having paid the costs of this suit pay one half thereof to the legal guardian of Josephine Johnson & the other half to Wm A Whitehead taking their respective receipts therefor & return the same with his report of his proceedings under this decree & the Court doth further adjudge order & decree that on the payment of said Bond the said C B Hayden who is hereby appointed Special Commissioner for that purpose execute & deliver a good & sufficient deed with Special warranty in fee simple to the said Irwin Crumpler for the land in these proceedings mentioned whereof Polly Johnson formerly Polly Pencell died seized in the County of Southampton, containing by estimation 196 2/3 acres

be the same more a less - lying adjacent to the lands of the heirs of John Baylein decd & the Jere Johnson tract

Whitehead

v } Copy Decree

Johnson

Southampton County Court February Term 1869

Wm A. Whitehead
Pff

against

Josephine Johnson
Deft.

In Chancery

This cause came on this day to be again heard on the papers formerly read & on the report of Sale of Commissioner Hayden under a decree herein of July Term 1868 and was argued by Counsel. On Consideration whereof the Court confirming said report to which no exceptions were filed doth adjudge, order and decree that the Clerk of this Court deliver to C. B Hayden on his filing his receipt therefor the bond of Irvin Crumpler & Charles B Crumpler for $755.00 payable Six months from September 22/'68 with interest from date returned with the report aforesaid, which bond the said C. B. Hayden who is hereby appointed Special Commissioner for that purpose is hereby required to collect & out of the proceeds thereof after having paid the costs of this Suit pay one half thereof to the legal guardian of Josephine Johnson & the other half to Wm A. Whitehead taking their respective receipts therefor & return the same with his report of his proceedings under this decree. And the Court doth further adjudge, order and decree that on the payment of said bond the said C. B. Hayden who is hereby appointed Special Commissioner for that purpose execute & deliver a good & Sufficient deed with Special warranty in fee simple to the said Irvin Crumpler for the land in these proceedings mentioned where of Polly Johnson formerly Polly Purcell died seized in the County of Southampton, containing by estimation 196 2/3 acres be the same more or less being adjacent to the lands of the heirs of John Boykin dec'd and the Jane Johnson tract.

A Copy

Teste W. W. Edwards CC

Whitehouse
vs
Johnson

Plea
Jany Term
1870

1870. Jany. Court

Whitehead
Johnson vs

This cause this day came on to be again heard on the papers formerly read & on the report of C B Hayden Commissioner for collection under decree herein of Febry Term 1869 & was argued by Counsel, on Consideration whereof the Court Confirms said report to which no exception was filed doth adjudge order & decree that this suit be stricken from the docket —

Whitehead } In
vs } Chancy.
Johnson }

Report of Commissioners
of
Partition —

1868 April Court

To the Worshipful
County Court of
Southampton -

April 4th: 1868

The undersigned four of the commissioners appointed by the decree of said Court at its March Term 1868 in the Chancery suit of Whitehead &c Johnson report to the Court that pursuant to said decree they examined the land therein mentioned for the purpose of dividing the same according to the direction of said decree - But they are of opinion that such partition would be inconvenient & injurious to the interests of the parties, as the portion of each would be so small as to be of little value - and would be worth less than $300.00 - That no party is willing to accept the whole, a part of the subject & pay the other therefor - They therefore recommend as best for the interest of all parties the sale of the whole tract, the gross value of which they estimate at $700 00/100 (Seven hundred dollars)

All of which is respectfully submitted

Signed -

J. C. Thomas
James G. Parry
Hardy Chapman
Jno. H. Griffin

Whitehead
Johnson } In Chancery

Commissioners Hayden's
Report of Sale—

1868 Nov. 6th.

To the Worshipful County Court of Southampton —

The undersigned reports to the Court that pursuant to the annexed Decree of said Court in the Chancery Suit of Whitehead v Johnson &c &c giving the Notice required by said Decree he on the 22d of September 1868 exposed to Sale the land in said Decree mentioned at public auction on the premises, when Irwin Crumpler being the highest bidder, became the purchaser for the sum of Eight Hundred Dollars $800.00: of which amount he paid the sum of $45.00 in Cash to meet expenses of Sale & Suit as per annexed Statement —

Attorneys Fee & mil Tax —	20.50 Paid
Clerks Fees — — —	5.00 paid
2½ per Cent Comm on $300.00	7.50
part Comm on $300.00 -	2.00
Auctioneers Fee - — —	10.00
	$45.00

The said Cash was paid to the parties entitled to receive the same as will appear from their receipts on the annexed Decree — For the Balance of said purchase Money $753.00 the said Irwin Crumpler with ~~Edwards~~ B Crumpler as Surety executed their Bond as required by said Decree: which Bond is herewith returned —

All of which is respectfully submitted

Sept 23d/68 — C B Hayden

Whitehead & Johnson } To Chancery

Communicates Hayden's Report of Collections —

1869 May 3d

To the Worshipful County Court of
Southampton.

The undersigned Special Commissioner under the annexed decree of said court of February Term 1869 in the suit of Whitehead &c Johnson reports to the court that pursuant to said decree he on the 5th day of April 1869 the collected from Irwin Crumpler his Bond amounting on said date principal & Interest to $779.53 & after deducting thereout the sum of $21.30 Costs as per annexed Statement leaving a balance of $758.23, he paid one half of said balance amounting to $379.11½ each to James Johnson guardian of Josephine Johnson & to William A Whitehead as per their receipts herewith filed — That on the payment of said Bond by said Irwin Crumpler your Commissioner made him a deed in fee simple with special warranty for the land in said decree Mentioned —

Deed Costs —	5.00
Stamps -	1.00
1/2 Comsn 300.00 -	7.50
1/2 " on 479.53	4.80
in last report — Commission omitted	3.00

Principal of Bond — 753.00
Interest — 24.53
779.53

21.30
2) 758.23
379.11½

All of which is respectfully submitted
C B Hayden

I hereby authorize C B Hayden to obtain a decree for the
Sale of the land of Polly Parent in Southampton county
Feb 3/48
to be sold on premises —

W. C. Whitehead

April 5/19 Received of C B Hayden Commissioner
in suit of Whitehead vs Johnson the sum of
Three Hundred & Seventy Nine Dollars & Eleven
Josephine Johnson's
Cents - my award & Ratio of proceeds of Sale of
land in said suit —

his
James + Johnson
mark

Witness
H. P. Young

Wm A. Whitehead

37911

April 8th/69 – Received of C B Hayden Commissioner in suit of Whitehead vs Johnson Three Hundred & Seventy-Nine Dollars & Eleven Cents – My Share of proceeds of Sale of Land in said Suit –

W. A. Whitehead

Whitehead

to } Com. bond

Johnson

Know all men by these presents that we C. B Hayden & Wm W Cobb are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of fourteen hundred dollars. to the payment whereof well and truly to be made we bind ourselves our heirs executors and administrators jointly and severally. firmly by these presents. Sealed with our seals and dated this 17 day of August A.D. 1868

The Condition of the above obligation is such that whereas the above bound C. B. Hayden was by a decree of the County Court of Southampton entered on the 20th day of July 1868 in a suit in Chancery therein pending between William A. Whitehead Plaintiff and Josephine Johnson Defendant - appointed Commissioner to make Sale of certain real estate in the proceedings in the said suit mentioned whereof Polly Johnson formerly Polly Percell died seized - Now if the said C. B Hayden shall faithfully perform the duties of his office or trust under the aforesaid decree or any future decree which may be entered in the said suit then the above obligation to be void or else to remain in full force and virtue.

C B Hayden (Seal)
Wm W Cobb (Seal)
(Seal)
(Seal)

Southampton County. In the Clerks Office the 17 day of August 1868

The above bond was acknowledged before me by the obligors thereto and W W. Cobb the security therein made oath that estate after the payment of all of his just debts is worth the sum of fourteen hundred dollars. the penalty of the said bond as he verily believes

L R. Edwards Clk