1889-04 Southampton County - Chancery Burt, Geo. E. Vs Williams, N. J.

"To partition land.
If cannot be done, be sold
and proceeds divided between
the parties entitled thereto

Burt

vs. Bill in Chancery.

Williams

J. J. Watts Esq.

To the Honorable C. W. Hill Judge of the Circuit Court for Southampton County:-

Humbly Complaining sheweth unto the Court your Complainant Geo. E. Burt, that Francis E. Williams was in his life time seized and possessed of certain real estate lying in the County of Southampton, Virginia, adjoining the lands of Mrs Mary Williams, J.A. Smith & others and containing 333⅓ acres more or less, and being so seized and possessed of the said ~~real estate~~, sometime in the year 187- the said Francis E. Williams departed this life intestate, leaving a widow - Mahala Williams - and C.F. Williams, P.S. Williams, W.V. Williams, S.J. Brittle (formerly Williams) T. R. F. Williams (formerly Williams) N. M. Williams and N.T. Williams his only children and sole heirs at law; the said N.T. Williams is an infant under the age of twenty one years, to wit:- Of the age of nineteen years. That the said Mahala Williams departed this life July the 3rd 1886. That your Complainant is now the fee simple owner of 6/7 of the said tract of land

of 33 1/3 acres above mentioned as will appear by a deed from L.F. Williams and Roberta Williams his wife, P.D. Williams, M.V. Williams, S.J. Bills (formerly Williams) B.O. Simmons & R.F. Simmons his wife, H.M. Williams & — Williams to Geo. E. Burt, bearing date on the 12th day of October 1887, and duly recorded in the Clerk's Office of Southampton County Court, a copy of which deed is filed herewith marked "Exhibit A" and prayed to be taken as apart of this bill.

Your complainant further states the said real estate is not, as he verily believes, susceptible of partition between himself and the said H.T. Williams who are, at present, the sole parties thereto; and if it be not, then your complainant desires the same to be sold, and the proceeds divided between himself and the said H.T. Williams according to their respective rights; the share of the said H.T. Williams who is an infant to be held as directed by the Statute in

in that case made and provided. Should the property not be divisible in kind, your Complainant believes and here states that the interest of those entitled to said real estate or its proceeds will be promoted by a sale of the whole of said real estate, or an allotment of part and sale of the residue.

In tender consideration thereof, and for as much as your Complainant is remediless in the premises save by the aid of the Court of Equity where matters of this kind are alone and properly cognizable, your complainant prays that the said N.T. Williams, be made a party defendant to this bill; that a proper guardian ad litem be assigned the said N.T. Williams, infant defendant, to defend his interest in this suit, who shall also answer this bill; that proper process issue that the said real estate be divided between the parties entitled thereto, and your Complainant's portion thereof be allotted to him; and in case the said real

estate cannot be partitioned and divided in kind, that the same be exposed to sale, and the proceeds of such sale be divided between the parties entitled thereto; that all proper orders and decrees may be made, and proper enquiries be directed and that also such further and general relief may be afforded your complainant as the Nature of her case may require or to equity may seem meet. And your Compleain ant will ever pray &c

Geo. E. Burt. J. F. West, p.q.

Sussex County, to wit:-

I, J. F. West, a Notary Public in and for the County aforesaid do certify that Geo E. Burt whose name is signed to the bill above made oath, this day, before me that the allegations contained therein, so far as made upon his own knowledge were true. Given under my hand this 5th day of March 1888.

J. F. West Notary Public.

Burt



Dunn

Williams

1888. Febry Rules

Civ: Ct:

Personally appeared before me this 25-th day of Janry 1888 J.E. Watt, who made oath that he this day delivered a copy of the within to W.S. Wilcoxen.

Witness my hand this 25-th day of Jan. 1888.

J.F. Watt Notary Pubbc.

The Commonwealth of Virginia,

TO THE SHERIFF OF ~~SOUTHAMPTON~~ Sussex COUNTY—Greeting:

WE COMMAND YOU TO SUMMON R. T. Williams, an infant under twenty one years of age

to appear at the Clerk's Office of our Circuit Court of Southampton County, at the Rules to be holden for the said Court on the first Monday in February next, to answer a bill in chancery exhibited against him in our said Court by Geo. E. Burt

And this he shall in no wise omit; and have then there this writ.

Witness, ~~J. B. PRINCE~~ B. F. McLemore, Clerk of our said Court, this 23 day of January 1888, in the 112 year of the Commonwealth.

Desto: B. F. McLemore C. C.

Williams et als:

To

Deed

Burt.

Exhibit

"A"

This Deed made this 10th day of October in the year one thousand eight hundred and eighty Seven, between D. F. Williams and Roberta Williams his wife, P. D. Williams W.R. Williams, Sr. J. Williams, S. J. Britts of Southampton County Virginia, B. A. Simmons and R. A. Simmons his wife, and B. W. Williams of Sussex County Virginia of the first part; and G. E. Burt of Sussex County Virginia of the second part witnesseth: That for and in consideration of fourteen hundred dollars in hand paid by the said G. E. Burt, the receipt whereof is hereby acknowledged, the said parties of the first part do hereby bargain sell assign and convey unto the said G. E. Burt party of the second party, with general warranty the following tract of land, to wit: all that certain tract or parcel of land lying and being in Southampton County Virginia, containing (333 1/3) three hundred and thirty three and one third acres. be the same more or less, and bounded as follows to wit: adjoining the lands of Mrs. Mary Williams J. A. Smith and others, it being the same tract of land of which Mrs Rahala Williams died seized and possessed. together with all

the appurtenances thereto belonging or in anywise appurtaining. To have and to hold said land and its appurtenances unto his heirs and assigns forever. Witness the following Signatures and Seals. this 12th day of October 1887.

L. F. Williams Seal
P. S. Williams Seal
Roberta Williams Seal
Mary S. Williams Seal
N. T. Williams Seal
I. J. Brittle Seal
B. D. Simmons Seal
L. F. Simmons Seal
H. M. Williams Seal

Virginia
Sussex County To wit.

I. J. F. West a Notary Public in and for the County of Sussex in the State aforesaid do certify that Roberta Williams the wife of L. F. Williams whose names are signed to the above writing bearing date on the 10th day of October, 1887. this day personally appeared before me in my County and State aforesaid and being examined by me privily and apart from her husband and having the writing aforesaid fully explained to her

she the said Roberta Williams acknowledged the said writing to be her act, and declared that she had willingly executed the same and wished not to retract it. And I do also certify that at the same time and place the said L.F. Williams also in my presence acknowledged the said writing.

Given under my hand this 12th day of October in the year of our Lord 1887

J. F. Vest
Notary Public.

Virginia
Sussex County To wit.

I, J.F. Vest a Notary Public in and for the County of Sussex in the State of Virginia, do certify that P.D. Williams, K. T. Williams, L.J. Brittle, and E.M. Williams whose names are signed to the above writing bearing date on the 10th day of October in the year 1887 this day personally appeared before me in my County aforesaid, and acknowledged the said writing to be their acts

Given under my hand this 12th day of October in the year of our Lord 1887.

J. F. Vest
Notary Public

Virginia

Sussex County, To wit:

I, D. F. West, a Notary Public in and for the County of Sussex, in the State aforesaid do certify that R. F. Simmons the wife of R. O. Simmons whose names are signed to the above writing bearing date on the 10th day of October in the year 1887 A.D. personally appeared before me in my County and State aforesaid and being examined by me privily and apart from her husband and having the writing aforesaid fully explained to her, she the said R. F. Simmons acknowledged the said writing to be her act, and declared that she had willingly executed the same and wished not to retract it.

And I do also certify that at the same time and place the said R. O. Simmons also in my presence acknowledged the said writing.

Given under my hand this 12th day of October, in the year of our Lord 1887.

D. F. West

Notary Public

City of Petersburg, To wit

I, Alexander Doman a Notary Public in and for the City aforesaid in the State of Virginia, do hereby certify that Mary V.

Williams whose name is signed to the foregoing writing bearing date the 10th. day of October 1887 and hereto annexed hath acknowledged the same before me a her act and deed, in my City aforesaid

Given under my hand this 17th of October 1887

Alexander Dorman

Notary Public.

Southampton County: In the Clerk's office, October 22. 1887.

The foregoing Deed from L. A. Williams and others to G. E. Burt was this day received and with the certificates annexed, admitted to record.

Teste B. F. McLemore clk.

A copy - Teste:

B. F. McLemore C.C.

Burt.

vs.

Answer of Infant defendant over the Age of fourteen yrs.

Williams

1888. May 7. Filed.

The answer of N. T. Williams an infant over the age of fourteen years to a bill in equity exhibited against him in the Circuit Court of Southampton County by Geo. E. Burt.

For answer to the said bill the said N. T. Williams answers and says that although under full age he believes he knows what are his interests in the matters referred to in the bill; he believes the statements made in said bill are true and that it will be to his advantage to sell the land as therein prayed for and invest the proceeds of sale in other property, or deposit the same in bank until this respondent is twenty one years of age which will not be two years. And now having fully answered he prays hence to be dismissed &c.

N. T. Williams

Sussex County, to wit:-

This day personally appeared before the undersigned, a Notary Public for Sussex County N. T. Williams, and made oath

that he believes the statements made in the foregoing answers are true. Given under my hand this 5th day of May 1888

J. F. Merk N.P.

Burk

v.

Williams

Answer of infant
by Guardian ad litem

The answer of N. T. Williams, a minor. by B. F. McLemore, his Guardian ad litem - assigned at Rules - to a bill in Chancery exhibited against him in the Circuit Court of Southampton County, by Geo. E. Burt.

This respondent, saving and reserving &c. for answer to said bill - says: That being an infant, is presumed to know nothing of the facts as set forth in said bill - that he has nothing to allege against the partition of the real Estate mentioned in the bill - but submits his rights to the protection of this Court.

And having answered, prays him to be dismissed &c.

B. F. McLemore
Gdn ad litem

Virginia:
Southampton Co: to wit:

Personally appeared before the undersigned B. F. McLemore, and made oath that his answer as above set forth, is true to the best of his knowledge and belief -

Given under my hand this 7th day of May 1888.

Wm. Shands
Comr in Chancery

Burt. 143

Stat: Rules

Williams

Feb

Geo. E. Burt. Plaintiff

against

N. T. Williams. an infant under 21 years of age. Deft.

1888. Jany 23. Summons issued to February Rules

" Feb: Rules: Procp rets. Executed on N. T. Williams bill filed & decree Nisi v Deft.

" Mch " Exhibits filed. ~~bill taken pro confesso as to infant Deft & Cause set for hearing.~~

B. F. McLemore Esquire appd Gdn ad litem.

answer of Gdn ad litem filed. Cause set for hearing

Burk

Williams

Know all men by these Presents, That we J. F. West and Geo. E. Burk

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of Four 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. And we, the obligors herein, hereby waive the benefit of our homestead exemption as to this obligation, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter-claims or offsets other than legal tender currency of the United States.

Sealed with our seals and dated this 16" day of July A. D. 1888

THE CONDITION of the above obligation is such that if the above bound J. F. West, who was appointed a Special Commissioner by decree of the Circuit Court of Southampton County entered in Vacation July 13th 1888. in Chancery Cause of Burk & Williams to collect the sum of $200.00 from G. E. Burk and pay over said amount to the legally qualified Guardian of N. T. Williams provided said Williams shall have a legally qualified Guardian within sixty days from the entering of the decree aforesaid otherwise to deposit said sum of $200.00 in the Petersburg Savings & Insurance Company's Bank bearing interest bearing Certificate therefor and file said Certificate with the papers of this Cause &c. shall faithfully discharge the duties required of him under said decree and those of any other decree which may be entered in said Cause.

~~shall faithfully discharge the duties of~~ ~~office or trust~~ according to law, then the above obligation to be void, or else to remain in full force and virtue.

Signed, sealed and delivered in presence of the Court.

J. F. West SEAL

Geo. E. Burk SEAL

By W. D. Scott atty in fact. SEAL

SEAL

Burt.

To ~~Sewer Atty~~,

Sebrell.

Know all men by these presents that I, Geo. E. Burt, of Sussex County Virginia do hereby make constitute and appoint W. J. Debell of Southampton County, Virginia, my true and lawful attorney in fact for me and in my name to sign, as security, the bond for Four Hundred Dollars required of J. F. Wash, Special Commissioner by a decree entered July 13 1888, in the Chancery cause of Burt vs. Williams now pending in the Circuit Court for Southampton County; and to do all lawful acts and things whatsoever concerning the premises, as fully in every respect as I myself might or could do if I were personally present. Witness my hand and seal this 17th day of July 1888

Geo E Burt [Seal]

Virginia,
Sussex County, to wit:-

I, J. E. Wash, a Notary Public in and for the County of Sussex in the State aforesaid do certify that Geo. E. Burt whose name is signed to the above writing bearing date on the 17th day of July in the year

1888, has acknowledged the same
before me, in my County and State
aforesaid.
I do also certify that the said
Geo. E. Burt also made oath
before me that after paying all
his debts and those for which he is
surety and waiving the benefit of
his homestead exemption his estate
is worth, at least, the sum
of Four Hundred Dollars. Given
under my hand this 20th day of
July in the year 1888.

J. E. Nash - Notary Public

Burt ~~129~~

Cassius Cook

123

Williams

Burt & Williams Vs. — Costs.

Summ: 20. Copy 10 receipt 18. atty 10 Docket 18. return 35

Rules 1.00 filing Bill 15. do exhib 15. Copy Exhib 1.75.

repl: 15. filing answer 50. 2 decrees & Copies 1.44

Sup Costs 40. filing papers 25. filing power of atty: 25

Casting Bond 50. record bond 25. Certificate 25.

Sheriff. $7.65 paid. B.F.M.

Sheff .50 paid " "

Law Co. 16.50 paid J.T. West

Comm W.S. Parker (Paid) 5.00

$29.65

150.0

14.65

Southampton Circuit Court May Term 1888

Geo. E. Burt

against

N. J. Williams an infant over the age of fourteen years.

This cause came on this day to be heard upon the plaintiffs bill, the answer of the infant defendant N. J. Williams by B. T. McLemore his guardian ad litem appointed for the purpose, the answer of the said N. J. Williams infant defendant over the age of fourteen years, which was this day filed by leave of the Court to which the plaintiff replied generally and was argued by Counsel.

On consideration whereof the Court doth adjudge order and decree that one of the Commissioners of this Court, ascertain and report to the Judge of this Court in Vacation, the following facts:- 1st. whether the tract of lands of 333⅓ acres mentioned in the plaintiffs bill can be partitioned in kind between the parties plaintiffs and defendants in the cause 2nd. whether the interest of the parties entitled to said lands will be promoted by a sale of the entire tract, or an allotment of part and sale of residue

3rd. whether either of the parties is willing to take the entire tract and pay to the other

such sums of money as this intervenor may entitle him to. Upon the consent of all parties given in open court and entered of record ~~this~~ is ordered that this cause be submitted to the judge of this Court for decision and decree in vacation. and all decrees and orders so made and entered shall have the same force and effect as if made and entered in term.

Attest

A true copy Teste B. F. McLemore b.c.

Commissioners Office,
Jerusalem, Va.,
June 11th: 1888.

To the Hon: C. H. Neill, Judge of the Circuit Court for Southampton County.
In Vacation.

Pursuant to a decree of the Circuit Court for Southampton County, entered at the May Term 1888, a copy of which is hereto annexed, in the Chancery cause therein depending of Hunt vs Williams, the undersigned, one of the Commissioners of the said Court, to whom was referred for report, in vacation, the following enquiries, to wit:
1st: Whether the tract of land of 333⅓ acres mentioned in the plaintiffs bill can be partitioned in kind between the parties, plaintiff and defendant;
2nd: Whether the interests of the parties entitled to said land will be promoted by a sale of the entire tract, or an allotment of part and sale of the residue;
and 3rd: Whether either of the parties is willing to take the entire tract and pay to the other such sums of money as his interest therein may entitled him to,
would respectfully report to your Honor

that, on the 26th: day of May 1888, he issued notice: against the several parties, plaintiff and defendant, requiring them to attend the settlement of the enquiries aforesaid before him, at his Office, on the 11th: day of June 1888, which said notice was returned to your Commissioner duly executed and is hereto annexed; that Geo: E. Burt, the plaintiff in the cause, is willing to take the entire tract of land and pay to the other party, who is N. J. Williams, the defendant, the sum of two hundred dollars, which amount, he, the said Williams, is willing to accept as a fair price for his interest in the said land; that your Commissioner has advised with several practical farmers who live in the vicinity of the land and are well acquainted with it, ~~they~~ are unanimous in the opinion that, its sale at the sum of two hundred dollars would be highly promotive of the interest of the defendant, who represents only one share, which is one seventh, and equal to not quite fifty acres of land; that this one share, in whatever way it might be cut off from the rest,

would certainly not sell for the price now offered for it; and as evidence of this fact some of the legatees were perfectly willing to sell, and actually did sell, their interests at not more than one hundred dollars each; there are no buildings which are not in a very dilapidated conditions and the land is said to be more desirable to the plaintiff than any one other party because he owns all of it but the one share of the defendant; and, your Commissioner would further report especially that, N. J. Williams, the defendant has appeared before him in person and stated that he thought two hundred dollars a good price and that he is perfectly willing, with the Consent of your Honor, to accept that sum for his interest in said land. He is not quite twenty one years of age, but is so nearly grown, being nineteen years old, and of intelligence sufficient, as to clearly see and understand what are his interests. From these facts, therefore, your Commissioner would recommend a sale of the said land at the price offered, subject

however, to such restrictions over the proceeds of sale, as the Court may think necessary to require.

Respectfully Submitted,
Wm. F. Parker,
Comr in Chy.

Comrs fee for this Report $5.00 Charged to plaintiff.

Burnt
vs
Williams

Report.

Received a copy of the within Notice
B. A. McLemore Esq. atty for Defn
June 7. 1888.

Burt

vs

Williams

Commissioners Notice.

Virginia,
Tazewell County, towit:—
Personally appeared before me. J. West, a Notary Public for Tazewell County. J.E. West. who made oath that he delivered a true copy of the within to Geo. E. Burt & N.T. Williams on the 1st day of June 1888 Given under my hand this 1st day of June 1888

J.F. West N.P.

To the Sheriff of Tazewell County.
to execute.

COMMISSIONER'S OFFICE,

Jerusalem, Va., May 26th 1888.

TO Geo: E. Burt,

vs

N. T. Williams, an infant under twenty one years of age.

You are hereby notified that I have fixed upon the 11th day of June next, if fair, if not, the next fair day thereafter (Sunday excepted) to take and settle, at my office, the following accounts, to wit:

1st: Whether the tract of land of 333⅓ acres mentioned in the plaintiff's bill can be partitioned in kind between the parties, plaintiff and defendant,

2nd: Whether the interest of the parties entitled to said land will be promoted by a sale of the entire tract, or an allotment of part and sale of the residue;

and, 3rd: Whether either of the parties is willing to take the entire tract and pay to the other such sums of money as his interest may entitle him to.

required to be taken by a decree of Southampton Circuit Court, rendered at the May term, 1888, in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid. Wm. F. Parker

JAMES R. TYLER, Commissioner.

To the Sheriff of Southampton Sussex County to execute.

Burt

vs. Decree.

Williams

In be entered
C.M.K.

Geo. E. Bust
against } Decree.
N. T. Williams an infant over the
age of fourteen years.

This cause came on this day to be heard upon the plaintiff's bill, the answer of the infant defendant, N. T. Williams by B. F. McLemore his guardian ad litem appointed for that purpose, the answer of the said N. T. Williams an infant defendant over the age of fourteen years, which was this day filed by leave of court to which the plaintiff replied generally and was argued by counsel.

On consideration whereof the court doth adjudge order and decree that one of the Commissioners of this court ascertain and report to the judge of this Court in vacation the following facts:-

1st Whether the tract of land of 333⅓ acres mentioned in the plaintiff's bill can be partitioned in kind between the parties plaintiff and defendant in this cause

2nd Whether the interest of the parties entitled to said land or ile be pro-

moted by a sale of the entire tract, or an allotment of part and sale of the residue.

3rd Whether either of the parties is willing to take the entire tract and pay to the other such sums of money as his interest may entitle him to.

Upon the consent of all parties given in open Court and entered of record, it is ordered that this cause be submitted to the judge of this Court for decision and done in vacation. And all decrees and orders so made and entered shall have the same force and effect as if made and entered in term.

Bent 132

U.S. Note for Decree.

Williams

To be entered.

C Toulmin
Judge &c

July 28th 1888

Entered 309

Geo. E. Burt.
vs. Bill for decree.
N. T. Williams.

This cause came on this day to be again heard upon the papers formerly had in this cause and upon the Report of Commissioner Parker this day filed in vacation, to which there is no exception, and was argued by Counsel. On consideration whereof the Judge, in vacation, approving said Report, doth confirm the same and order that J. F. West, who is hereby appointed a Special Commissioner for that purpose, accept the bid of Two ($200.00) Hundred Dollars made by Geo. E. Burt for the 1/3 undivided interest of N. T. Williams in the tract of land of 333 1/3 acres in these proceedings mentioned, collect said amount, and execute to the said Geo. E. Burt a good and sufficient deed, with Special Warranty, for the interest of the said N. T. Williams in said land & report to Court. The Court doth further adjudge order and decree that the said J. F. West Special Commissioner as aforesaid pay over the $200.00, collected as above, to the legally

qualified guardian of N. T. Williams, and if there be no legally qualified guardian in 60 days from the entering of this decree then the said J. F. Wash, Special Commissioner, shall deposit said account in the Petersburg Savings and Insurance Company's Bank, Petersburg Va. taking interest bearing certificates therefor and file the same with the papers in this cause, and said certificates when so filed shall be a discharge of said J. F. Wash, Special Com: for the account so deposited. It is ordered that Geo. E. Burk pay the costs of this said.

But before the said Commissioner shall act under this decree he shall enter into bond in the penalty of $~~250.00~~ 400.00 with security to be approved by the Clerk of this Court conditioned according to law for the faithful discharge of his duty under this or any other decree in this cause.

Bent

vs. Deem

Ejectment

To be entered

Nov 18/84 C. W. Bell

Entered page 366

Hunt
vs. } Decree
Williams

This day this cause came on this day to be further heard upon the (the papers formerly read) Report of Special Comr. J. F. Hart this day filed to which there was no exception & was argued. On consideration whereof the Court doth confirm the said Report of Comr. J. F. Hart and doth adjudge and decree that he pay over to the legally qualified Guardian of M. Williams the sum of $700- now in his hands as Special Comr. in this cause - And nothing further appearing necessary to be done in this cause it is ordered that the same be removed from the docket.

Bunt

Report of Spec. Exam.

Williams

Filed Nov. 18. 89

C. W. Hill

Burt
vs. H.
Williams

C. W. Kell

To the Honorable ~~D. A. Liverett~~
Judge of the Circuit Court
for Southampton County:-

The undersigned
your Commissioner, respectfully
reports that he did not collect the
$200. of Geo. E. Burt mentioned in
the decree entered in this cause in
July 13, 1888, entitled November 1889;
that he has executed unto the
said Geo. E. Burt a special bond with
good security for the sum mentioned in the
plaintiff's bill, as directed in said
decree. Your Commissioner further
reports that at the — Term 1888,
of the County Court of Sussex County
your Commissioner qualified as
guardian of the infant defendant
N. T. Williams - and asks that the
$200 ~~less his Commission as Special~~
~~Comm'r.~~ be turned over to the undersigned
as guardian of the said N. T. Williams.

Your Commissioner has given the bond
required of him in this cause.

Respectfully
J. Fleet Comm'r