

1785-001

Southampton County

Chancery Papers. Wright & ux vs Thorpe

3/1785

Other SURNAMES: Jarrell,
Thomas, Edwards, Williams,
Scarborough, Atherton

To the worshipful justices of Southampton county sitting in Chancery
Humbly complaining shew unto your Worships your Orator, James Wright
& Martha his wife - That one Thomas Farrell late of the county of Southampton
deceased grandfather of your Orator was in his life ^{seised of} an absolute estate of
& in one certain tract or parcel of land lying & being in the said county
on the Angelica Swamp containing Acres, with a Water
gross mill thereon - & having with the entire approbation of one Timothy Thorpe
intermarried with his daughter Betty by whom the said Tho^s Farrell had
issue a son named Thomas. that during such marriage & after the birth
of the said son Thomas a discourse was had & held between the said
Thomas the father & the said Timothy Thorpe concerning ~~the~~ a provision
to be made for the said Thomas the son. the said Thomas the father being
then in a dangerous illness which ~~he~~ proved his last when it was then
& there agreed that in Consideration that he the said Thomas the father
would execute a deed to the said ~~Thomas~~ Timothy Thorpe conveying
the fee simple ~~estate~~ of the afo^d Lands & plantation to him the said
Timothy Thorpe his heirs & assigns ~~that~~ for a consideration of three
hundred pounds that the same should be considered to be done in trust
& confidence & with this express condition or proviso that he the said
Timothy should by some instrument in writing bind himself to
reconvey the afo^d Lands & premises to the said Thomas the son in
fee simple when he should attain the age of twenty one year - That
some short time after & during the afo^d indisposition of the said
Thomas the father the said Timothy prepared a conveyance
transferring the absolute estate in the said Lands to himself his
heirs & assigns on producing which he the said Thomas absolutely
refused signing or executing any such conveyance unless some proper
instrument should be produced & executed by the said Timothy to
compel ~~him~~ him to reconvey the said Lands to the said Thomas
the son according to the express agreement of the said Timothy, but
as the said Timothy then alledging that he had solemnly promised
never to sign or execute any kind of writing whatever not only on
this but on any occasion, & then also in the presence of diverse &
many witnesses most sacredly promised & undertook that if he the
said Thomas would sign & execute the afo^d conveyance of the Lands
aforesaid that he the said Timothy would faithfully perform the
said agreement on his part & execute & reconvey the Lands & premises
contained in the afo^d deed to the said Thomas the son whenever he
should attain his age of twenty one - which for the greater solemnity
he particularly called on the several witnesses present to take notice
of & keep in remembrance, that the said Thomas confiding in their
honesty & integrity of the said Timothy & considering him as a future
faithful trustee for his said son then executed the said conveyance
but at the same time strongly insisted that it was expressly to be
considered that the same was in consideration & in full faith &
confidence that the same should be reconveyed to his son Thomas

when he should arrive of age, that soon after these transactions the said Thomas the father being satisfied & content with this future provision for his son, he the said Thomas the father departed this life - Your Orator further shew that in consequence of this agreement & conveyance the said Timothy entered in & upon the said lands & received the profits thereof until the time of his death which happened about the year 1763. when the said Timothy totally neglecting the trust aforesaid & in express violation of the confidence reposed in him by the agreed & in a de his last will & testament ~~advised~~ duly proved & recorded wherein he gave & devised the said lands & plantation to his son - Timothy Thorpe & to his heirs for ever - who ~~was~~ ^{was then} an infant as was also the said Thomas the son - That the said Thomas the son, by his next friend commenced a suit in this worshipful Court against the said Timothy Thorpe the devisee of the said lands for the express purpose of perpetuating the testimony of the several witnesses who were present at the time of the original agreement & execution of the deed of conveyance aforesaid in order that the said Thomas might have the benefit of such testimony when he should arrive at his lawful age in which suit it was decreed & ordered that the depositions of the following witnesses to wit Henry Thomas Meigs Edw. & Benjamin Williams Samuel Scarborough & Betty Petherick being first duly taken by virtue of a Dedimus Potestatem issuing from the said Court should be lodged & recorded in the said Court in perpetuam. ~~the~~ Memorials to which proceedings your Orator beg leave particularly to refer & that the same may be considered as part of this their bill of complaint & which are thereto annexed They further shew to your worship that the said Thomas Jarrell the son arrived to his age ^{twenty one} but soon after departed this life intestate leaving your Orator Martha his only daughter. Their who hath since intermarried with your Orator & which said Martha your Orator conceives & is advised is intitled in all justice & equity to demand & have a faithful & specific performance of the agreement aforesaid & intitled to all the advantages accruing therefrom as the only ~~daughter~~ ^{sister} of the said Thomas the son for which end & purpose your Orators have in the most friendly & amicable terms applied to the said Timothy Thorpe the devisee & requested him to ~~advise~~ inform himself of the several circumstances herein particularly set forth & that he would fulfil & comply with the agreement aforesaid specifically by conveying the said lands & premises to your Orator her heirs & assigns according to the true intent & meaning of parties who made the agreement herein before recited But now so it is that it please your worship that the said Timothy Thorpe altogether refuses to comply in ^{any} manner therewith pretending that he knows nothing of any such agreement that the lands are devised to him unconditionally & that he is not bound by any prior agreement of his father the said Timothy ^{Thorpe} the father altho' he well

knows that the said Timothy the father was only a trustee for and on behalf of the said Thomas Jarrell the son your Orator's father & as such could not without the most manifest breach of such confided trust ~~devise~~ either convey or devise the said lands to any person but to the said Thomas Jarrell the son or those legally claiming under him & altho' he well knows the Consideration given for the said lands was altogether inadequate to their value & that the said Timothy the father has been more than reimbursed that sum by the possession & profits arising from the same during the minority of the said Thomas Jarrell the ~~father~~ ^{son} All which actions & doings of the said Timothy Thorpe the father & Timothy Thorpe the son & devisee are manifestly unjust & in breach of the most sacred trust confided in the said Timothy the father & tend to the ruin & impoverishment & disinherison of your Orator, In tender consideration & for as much as your Orator will be totally deprived of her inheritance by the strict rules of the Common Law & that by a manifest breach & open violation of the confidence reposed in the said Timothy the father & your Orator can only be relieved by the known rules of justice & equity strictly adhered to in this worshipful Court ~~of equity~~ To the end therefore that the said Timothy Thorpe the devisee may upon his corporal oath full true & open answer make to all & singular the allegations of this bill as fully & particularly as if the same were again repeated & interrogated & more especially that he may set forth & discover, whether the said Thomas Jarrell the father was not in his life seized of such lands as are herein described? Whether he ~~did~~ ^{did not} intermarry with Betty a daughter of the said Timothy Thorpe ^{brother} whether he had ~~any~~ ^{any} Thomas Jarrell his son by your Orator's father? Whether such conveyance as before recited was not executed by the said Thomas the father to the said Timothy the father? Whether the same was not executed upon the special trust promise & confidence of being again reconveyed to the said Thomas Jarrell the son when he came of age? did he not arrive to the age of twenty one? was the same ever conveyed to him or any equivalent? Did not the said Timothy Thorpe enter upon & enjoy the said lands & the profits thereof? Did he not by his last will & testament in breach of the trust aforesaid devise the said lands to the said Timothy Thorpe the defendant in fee simple? & is he not by virtue thereof in the quiet enjoyment of the same. And that this worshipful Court will decree, that the said Timothy Thorpe the devisee may be compelled to ~~devise~~ specifically to perform the trust & agreement entered into by the said Timothy Thorpe the father with the said Thomas Jarrell the father by executing good & sufficient deeds in the law for conveying the absolute & unconditional estate of the lands & plantation heretofore conveyed to him the said Timothy Thorpe the father in trust for the benefit of your Orator her heirs & assigns, & also account of your Orator's father to your Orator her heirs & assigns from the time the said Thomas Jarrell ^{brother} arrived to his age of twenty one

or that your worshipers will make such further or other Decree ⁱⁿ the
premises as may relieve your orators & be consistent with that equity
Justice which their case may require May it please the
Hells for Comfort.

Wright & wife }
" } Bill
Thorp. } in
Chanc.

Sept. 1782

Time to
Consider

July 1783 time to answer

Appl. further time to ans.

June Cont. for def.

Dec. 1784

Spa or heir to review
fe

Mar 1785

Attest.