

1794-138

SOUTHAMPTON COUNTY
CHANCERY PAPERS

VASSAR

VS. CARR et als

3/1794

other surnames: Westbrook,
Scott, Harriss, Rochelle,
Westbroke, Harris, Rochell,

Vassar.
25
Carroll. } Bunde

To the Worshippful court of Southampton county in chancery
sitting. humbly complaining sheweth unto your worships your
oratrix Elizabeth Vassar infant & only child of Jesse Vassar
deceased, by Robert Vassar her next friend

That a certain Lydia Vassar late of the County of South-
ampton being seized as of fee in one certain tract or parcel of
land in the county aforesaid, made her last Will & Testament
bearing date the 10th day of October one thousand seven hun-
-dred & Seventy three as appears by a copy of the said Will, being
of record in this worshippful court, and prayed to be consi-
-dered as part of this Bill of Complaint; among other things,
she the said Lydia in the Will aforesaid, devised to your ora-
-trixes father ~~a certain~~ the said Jesse Vassar to his heirs for-
-ever the said tract or parcel of Land, provided when he came
of age he would advance for the use of the said Lydia's estate
the sum of twenty five pounds. and in the Will aforesaid
she makes her four daughters w^{it}. Elisabeth, who intermarried
with Robert Carr, Margarette to Thomas Warbrooke, Mary to
Theophilus Scott, and Ann Harris her residuary legatees,

Your oratrix further sheweth, that (as she hath been informed)
her said father Jesse Vassar under the devise aforesaid, after
the decease of the said Lydia, entered & possessed himself of the said
lands, and stipulated with the said residuary legatees, and the
Lusbanes of those that were at that time married, to pay them
their several proportions of the said twenty five pounds. at certain
periods, which they severally agreed to, and in fact, that he did
agreeable to such agreement make payments thereof, and thereupon
the said Jesse Vassar in his life time he did on the day of

made sale of the said tract or parcel of Land to a certain John
Rochelle for the sum of one hundred pounds current money, and
transfers the same by deed to the said ^{John}, which will also appear
upon reference to the records of this court; that the said Jesse
your oratrix father after this circumstance he did, on or about the
day of

Removed into the State of North Carolina

and there departed this life, leaving your oratrix his only child
an infant of very tender years.

Your oratrix begs leave further to suggest to the Court, that notwithstanding the premises, she hath been lately informed by her friends, that the said Residuary Legatee & their husbands brought their suit in this Worshipful Court against the said John Rochelle, stating that they had never received the aforesaid Twenty five pounds, and unbeknown to your oratrix, recovered the said Land, and obtained a decree to have the same sold for their uses, which hath been done, & purchased by one of the said Legatee, to wit Theophilus Scott who intermarried with Mary Vassar, at a very moderate price, to wit the sum of forty pounds, by which means, (without the interposition of this Worshipful Court) the small estate which your oratrix's father left her, must be exhausted in the payment of the hundred pounds & interest thereon to the said John Rochelle, the purchase money paid by him to your oratrix's father for the said Land; altho your oratrix hath been ever willing (if it has not been done) that the personal estate of her said father should go in aid of the real, that is, ^{that} the payment of the said twenty five pounds ^{should be made} out of the personality, to establish the title of the Realty. to John Rochelle agreeable to the Contract of her said father; these proceedings so prejudicial to an infant, which the laws are bound to protect, your oratrix conceives to be highly improper, & what your worship would never have suffered, if you had have had knowledge, that there was such a person as your oratrix in existence; who in this instance considers herself as under the protection of this Worshipful Court.

In tender consideration whereof, and for as much as your oratrix is irretrievable only in a Court of Chancery.

To the end therefore that the said, Robt Carr & Elizabeth his wife, Thomas Westbrooke & Margaret his wife, Theophilus Scott & Mary his wife, Ann Harris, & John Rochelle (whom your oratrix prays may be made defendants to his bill of Com-

-plaint) may upon their corporal oaths full, true & perfect answer make, to all and singular the allegations in his bill contained. & that as copiously, as if they were again herein repeated & interrogate but more especially, that the Residuary Legatee aforesaid severally answer, whether Japhet Vassar ever paid him the proportion of the said Twenty five pounds which he was to have paid agreeable to Lydia Vassar's will for the said Land? did he ever pay them, or either of them any part thereof, to whom did he pay, & how much? did he ever agree to pay them, & when, & what agreement was made? did they ever have any dealings with Japhet Vassar for goods, board, or any other thing, & what dealings did they ever have with him? and that the said defendant John Rochelle will fully set forth, whether he knows that Japhet Vassar ever paid the said money, or any part of it, and to whom, & how much? or if he knows of any agreement about the payment thereof, & what it was? did he not purchase the Land of Japhet Vassar & what did he give for it? did he not look to Japhet Vassar's estate for the purchase money & interest? hath not the Land been recovered from him? since the recovery, hath it not been sold, to whom, & for how much?

And that this Worshipful Court, the Guardians of infants, upon the payment of the said twenty five pounds by your oratrix or her friends, (if it hath not already been paid, or agreed to be paid) and the interest thereon from the time Japhet Vassar arrived to lawful age, decree that the said Land be delivered up to John Rochelle agreeable to his Contract with Japhet Vassar; and that the said John be confirmed in his title to the same, and that all orders & decrees respecting the same made in this Court be reversed & annulled, which will be consistent with the will of the said Lydia Vassar, and consonant to Law & the rules in equity, and make any other, or further order

or decree for your full relief of your oration as may seem
meet.

May it please de

Yarkougher Comptroller

Vassar.
is
Carroll. } Bente

Paper

Spain
Hokye
ters.

Carr & others

21

to August 1793,

March 17th abates def
comte d'ax d'ax

cont. de a d

Execution Mrs Harris

Ed. Turner Esq.

Spending 1884

$$\begin{array}{r} 103 \\ \hline 123.6 \\ \hline 41 \\ \hline 82 \text{ cents} \end{array}$$

Y.
THE Commonwealth of Virginia to the Sheriff of *Southampton* County,
greeting: You are hereby commanded to summon *Robert Carr and*
Elizabeth his wife, Thomas Westbrook and Margarete his wife,
Ann Harris, Theophilus Scott and Mary his wife, and John
Rockelle
to appear before the Justices of our said county court of *Southampton* at the
courthouse, on the *second thursday in August next* ~~to testify and~~
~~the truth to say in behalf of~~

~~in a certain matter of controversy in our said court, before our said Justices de-~~
~~pending and undetermined between~~ *to answer a bill in chancery exhibited*
against them by Elizabeth Casper infant daughter of Jesse Casper by
Robert Casper her next friend

And this ~~they~~, shall in no wise omit, under the penalty of 100l. each, And have
then there this writ. Witness, *Samuel Tello* —, Clerk of our said
court, at the courthouse aforesaid, this *19th* day of *July* 1798 in the
18th — year of the Commonwealth.

Jn^o D. Hausmann, D.C.