

1803-012

SOUTHAMPTON COUNTY
CHANCERY PAPERS

JOHNSON et al vs. JOHNSON et al

6/1803

Other SURNAMES: Jones,
Lowe, Kitchen

Johnson & Co }
" }
Johnson & Co } Biers
(S. H.)

June 1803

(Declar and appeal
to next Chy district)

To the Honorable Court of Southampton County sitting in Chancery.
Humbly Complaining Shew unto your Honors your orators Henry
Johnson Widow and Relict of Robert Johnson the younger deceased, Mirry &
Edley Johnson Children of the said Robert, and Charlotte Johnson an infant
of the said Robert Johnson, by John Lowe her next friend, all of the
County aforesaid,

That a certain Robert Johnson the elder
late of this County, among other things, was seized of a Tract of Land
of one hundred twenty acres, which he bought of James Kitchen,
and by his last will and testament bearing date the 4th day of Sep-
tember 1772, which is duly recorded in this Court, a copy of which is
hereto annexed. He among other things made the following devise
and bequests "I give and bequeath to my son Robert Johnson
120 acres of Land that I bought of James Kitchen" "I give and
bequeath to my Grandson Edmond Johnson five Shillings" The
said Robert the younger, upon the decease of Robert the elder his
father, possessed himself of the said Land, and continued thereof
possessed until the time of his decease which happened in the
American Army, about the day of 17 afterwards

to wit on the day of 17 the aforesaid Edmond who
is the eldest son of Lemmy Johnson the son at Law of Robert the elder
claimed ~~the~~ and seized himself of the said parcel of Land, he
made Sale thereof to a certain Lemuel Jones late of this County, and
the same Land is now in possession of Joseph & Samuel Jones sons of
the said Lemuel the purchaser. Your orators beg leave to sug-
-gest to the Court, that altho there are no words of perpetuity in the
devise of the Land to their father Robert the younger, yet they can
establish from clear and incontestable proofs, that Robert Johnson
the elder at the time of making his will aforesaid, told Joseph
Bradsheaw the writer thereof, to give the said 120 acres of Land to
his son Robert and his heirs, and this is strongly corroborated by
every devise & bequest contained in the will, for as he has given
the said Edmond the heir at Law five Shillings, it is sufficiently
evident that he never intended him to derive any other advantage
under the will, since, by express terms, he is excluded, nor can he by
any principle of Law, or equity be entitled. Your Complainers
further state that they have understood, that when Lemuel Jones purchased
the aforesaid Land of Edmond Johnson, that he required and did
obtain a bond of indemnity as well as a deed, being well assured that
Edmond's title was not good & sufficient to secure him in his possession

thence, your Complainants further state that because of their
financial situation they have been greatly oppressed and injured by the
said Edmund and his Confederates -

In tender consideration whereof, and for as much as your orators
are without remedy only in a Court of equity, whose province it is to
soften the rigours of the law, and give a full interpretation to the intention
of testators, to make void deeds & contracts that are founded upon
unrighteous principles, and to secure and quiet persons in the
peaceable enjoyment of their possessions -

To the end therefore that the said Edmund Johnson, Joseph &
Samuel Lewis (who your Complainants pray may be made defendants
to this bill of complaint) may upon their Corporal oath full, true & perfect
answer make to all and singular the allegations in this bill contained
and that as frequently as if the same were again repeated & interrogated

And that your Worships will decree to the Complainants
(upon the facts aforesaid) the said one hundred & twenty acres of
Land, as being the persons entitled under Robert Johnson the younger
he having died intestate, and make any other or further order or
decree on the premises touching the parties aforesaid that may be
expedient & just

May it please the

Yours faithfully for Compts

Johnson
v.
Johnson } Answer.

The Answer of Edmund Johnson and of Joseph and Samuel Jones to the bill of complaint exhibited against them in the worshipping court of Southampton county by Mary Johnson widow and relict of Robert Johnson ^{jr dec?} and of Milly and Eley Johnson children of the said Robert, and of Charlotte Johnson an infant of the said Robert by John Jones her next friend.

These Respondents admit that Robert Johnson the elder was seized of a parcel of land containing one hundred and ~~forty~~ ^{twenty} acres, which he purchased of James Kitchen, and that by his last will and testament bearing date the 4th day of September 1772, devised the same to his Son Robert Johnson. But they are advised that as there are no words of inheritance or perpetuity annexed to this ^{or} devise, that the ^{or} Robert the son only took an estate for life, and that the remainder immediately upon the death of Robert Johnson the elder, was vested in Edmund Johnson his heir at law. They know nothing of the testimony of Joseph Bradshaw, but believe that, even if it be, as stated by the Complainter in their bill, that this ^{Court} will disregard it. They pray to be hence dismissed with their reasonable costs in this behalf expended.

Southampton The above answer affirmed to
by Sam Jones ^{Joseph Jones} before
Will Bailey
Aug. 18. 1800

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The answer of Joseph Jones and Samuel
Jones to the bill of complaint exhibited
against them and Edmund Johnson in the Court
of Southampton County by Mary Johnson widow
and relict of Robert Johnson the younger decd.
Milly and Polly Johnson children of the said
Robert and Charlotte Johnson infant of the said
Robert Johnson by John Lane the next friend.

These Respondents saving all right of
excepting to the various errors and imperfections
of and in the complainant's said bill contend
for answer thereto or to as much thereof as they
are advised is material for them to answer.
They say that it is true that Robert Johnson the elder
did make such a devise as that mentioned
by the complaint but they conceive for the want
of the words heirs, issue or some other words
of perpetuity, that Robert the younger only
took an estate for life in the land therein
bequeathed. Consequently they consider that
Edmund Johnson the heir at law of the said
Robert the elder took the premises in

the said land immediately upon the death
of Robert the ~~younger~~ ^{elder}, indeed to use the
language of the law, the fee immediately
upon the death of Robert the elder was
vested in the said Edmund Johnson. These
Respondents state that their father, under
whom they claim, purchased the said land
from the said Edmund Johnson without
as far as they know or believe
requiring any bond of indemnity. These
Respondents relying upon the Court's confirming
themselves to the will of the said Robert the
elder, as written, pray to be hence discharged
with their reasonable costs in this behalf
most wrongfully sustained - A.W. Williams

Affirmed to before me
~~Lawyer to~~ ¹²

W. Bailey
Aug. 17th 1801

Johnson &c

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Jones & Johnson

} Decree
Nisi

20 Sept. 1801.

Decree

as Claim: Jones

The drafts must be secured with
a copy of this decree.

Edw. Jones

Southampton county (Tennessee)

June Court 1800.

Mary Johnson widow executrix of Robert Johnson the younger
Mille, Edley & Charlotte Johnson children of the S. Robert by
John Laise their next friends . . . Comps. ^{agts.}

In Chancery

Joseph & Samuel Jones & Edmund Johnson . . . defts

The defendants having been served with the subpoena in this cause &
failing to appear & answer the complainants bill The cause came on
now to be heard on the S. ~~complainants~~ bill. On consideration whereof
it is decreed & ordered that the complainants recover agt the S. defts
one hundred & twenty acres of land with the appurtenances to which they
are entitled as stated in the S. bill under the S. Rob. Johnson the younger
unless they ~~themselves~~ S. defendants shall appear & answer the S. bill on or
before September Court next

teste Saml Wells S.
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Johns ac^{to} } Spec
vs } in
Lones ac^{to} } ch^y.

To March 1798

25th Jan^y 1798

Executed on Lough

Lones, Copy left
for Samuel Lones
and Johnson
Robt Mabry

The commonwealth of Virginia to the sheriff
of Southampton county greeting, you are hereby
commanded to summon Joseph Jones & Samuel
Jones and Edmund Johnson to appear before
the justices of our said county court at the
courthouse of the S^d county on the third
a bill in Chancery exhibited against them by —
Monday in March next to answer Mary
Johnson widow of Rob^t Johnson dec^d, the younger
Milley Johnson Eury Johnson & Charlotte Johnson
infants of the S^d Robert by John Lowe her next
friend and this they shall not omit under the
penalty of one hundred pounds each and have
then & there this writ witnessed Sam^l Kello clerk
of our S^d Court at the Courthouse the 22^d
day of January 1798 and in the 27th Year of
the Commonwealth

Sam^l Kello Jr Dec 8
(1798)

Southampton 16th of June 1799. to a Comm. to us
dated the 19th day of Jan^y 1799.
We have interrogated Council Johnson, & Sarah
Johnson, & also on oath for Love, & Amilly
Johnson, & also on oath for on behalf
of Edmund Johnson, Joseph ~~John~~ Lam^r John
Defendants, Council, ~~Johnson~~ of full age
being first sworn of the holy evangelist
of Almighty God, deposed, and said that
that he heard Rob^t. Johnson ~~say~~ some
time previous to his death. that he intend
ed to have his wife attend to give the plan
tation, that he bought of Jas. Ketchum to
his son Rob^t. Johnson, which he accordingly
did write to his said son Rob^t. And that
he the J. Rob^t. Johnson, was in the
possession of the said Land, for several years
and that the the J. Rob^t. was killed in
an engagement at Petersburg, And
Edmund Johnson took possession of the
said plantation and dispossessed the wife
& children of the said Rob^t. Johnson, and
sold the Land, & applied the money to his
own use.

Robt Johnsons

Will

In the name of God amen I Robert Johnson of Southampton
county being in sound & perfect sense and remembers I give
& beca^{use} my soul to y^e almighty God who gave it to me
be buried in a ch^{ri}st^{ian} manner by my executors it is
my desire I gave & beca^{use} to my son Robert Johnson
120 acres of land that I Bought of James Kitchen & 1 Cow &
1 calf & 1 heifer & 1 feather bed and fort^un^e 2 yoes & 2 lanes
& 2 young sows & 1 Gun and 1 mare saddle & bridle I give &
beca^{use} to my daughter Sarah Johnson 1 cow and calf & 2 oves
& I give and beca^{use} to my daughter Sley Johnson 1 feather
bed and fort^un^e & 1 dinner wheel I give and beca^{use}
to my daughter Ann Johnson 1 feather bed & fort^un^e &
sows & lam I gave and beca^{use} to my daughter Martha
Johnson 1 cow & calf I give & beca^{use} to my grandson Th^omas
Johnson £1.5.0 to be paid to him at 20 years old I give
& give and beca^{use} to my grandson Edmund Johnson ^{£5}
I give & beca^{use} to my daughter Mary Daye £20.5.0 I give
and beca^{use} all the rest of my worldly estate to my well
loved wife Martha Johnson to be at her disposal during
of her life or widow hood & after wards to my son Robert
Johnson to him forever I appoint my son Robert Johnson
& Council Johnson to be my whole ~~estate~~ Executors of
this my last will & testament September 4th day 1772

Joseph Bradshaw
Hardy Dayel

Robert R Johnson
his
mark

At a court held for the county of Southampton
the 12 day of September 1772 - This will was presented in
court by Council Johnson one of the Executors therein named
& proved by the oaths of Joseph Bradshaw & Hardy Dayel
two of the witnesses thereto and ordered to be recorded

And on the motion of the said Executors who made oath
according to law certificate is granted him for obtaining
a probat thereof in due form giving security whereupon

Ruthello B

A true Copy teste

Ruthello B

Robt Johnsons
will

Mary Johnson widow of Robt. Johnson the younger
Milly Johnson, Edy Johnson, Charlotte Johnson
(wif. by Dr. Lewis her next of kin) Children of S^r. Robt
or Joseph Lewis & Samuel Lewis, for the within Land
Spec. in Chy. (Can prove that the within Robt the
elder devised Joseph Bradshaw to give the Land to
Robt. the younger & his heirs, Edmund Johnson the son
of Denney who is cut off by 5th Trust the Land & Sales
is to Samuel Lewis.
Charge to Dr. Lewis to. By Cert. 5th dollar

Kello, Samuel D. C. C.

Know all men by these presents that we Samuel Jones ~~and~~
and Elisha Lewis
~~and Elisha Lewis~~ are held and firmly bound unto Mary
Johnson widow of Robert Johnson the younger Milly Johnson Eldest
Johnson and Charlotte Johnson an infant of the said Robt. by
G. W. Lowe her next friend in the full and just sum of thirty
pounds current money of Virginia to be paid to the S^r. Johnson &
their certain attorney executors and administrators or assigns to which
payment well and truly to be made we bind ourselves and each
of us our and each of our heirs executors and adm^{rs} jointly & severally
firmly by these presents sealed with our seals and dated the
day of 180

The condition of this obligation is such that whereas in a suit in chancery commenced and prosecuted in the Court of the county of Southampton by the said Mary Johnson widow of Robert Johnson the younger Mully Johnson, & Edy Johnson children of S^r Robt and Charlotte Johnson an infant S^r Robt by John Lowe her next friend it is considered ~~that~~ the Court they recover against S^r Joseph Wain Jones and Edm^d Johnson or tract of land and premises ment in the bill of the Com^{rs} and their costs by them expended from which decree the defendants prayed an appeal to the next Chancery district Court to be held in Williamsburg. Therefore if the said Joseph Wain Jones and Edm^d Johnson shall effectually prosecute the said appeal and pay all costs and damages that shall be awarded by the said District Courts of Chancery in case the ~~decree~~ decree of the S^c County Court of Southampton shall be affirmed then this obligation take root or to be in full force

Signed Sealed & Acknowledged
in presence of
Samuel Deane

Sam Jones
Clara Lewis

In presence of

Sam Keco