

1806-031

SOUTHAMPTON COUNTY
CHANCERY PAPERS

PHILIPS and Wife vs JONES' EXECUTOR 9/1806

Philips Hunt } Bill.
" }
Gee enter }

Aug 1800

Bill and answer

Filed L.

Sep 1800

Occasional

To the worshipping court of Southampton county, sitting in chancery, humbly shew to the court your orator and oratrix William Philips and Sally his wife.

That a certain Thomas Jones your oratrix's first husband had the equitable title in a tract of land lying in this county and within the jurisdiction of this court. That the said Jones bought the said land from a certain James Wilkinson, paid him the purchase money and took from him a title bond. That the said Thomas Jones departed this life on or about the twelfth day of May A.D. 1800 after having duly made and published his last will and testament in writing, an attested copy of which for greater certainty is hereto annexed and prayed to be taken as a part of this bill. That by the said will, the said Jones lent to your oratrix for life the said place (called and known by the name of "the cross keys") but in a subsequent clause of the same, he authorised his executors to make sale of that place, and vest the money in the purchase of other lands which were to be held by your oratrix for life, in lieu of the cross keys. That in pursuance of the power thus vested in the executors, James Gee the acting executor with the consent of your oratrix sold the said place (called the cross keys) but has not purchased any other lands. That the price which he got for the cross keys was £750 and that the sale was made on the 18th day of Aug. A.D. 1800.

They add, that the said James Gee from an excess of caution refuses to pay to them any portion of the proceeds of the cross keys, although it is manifest that they ^{are} both legally and equitably entitled

to a considerable part thereof, and although neither of them has ever received any money or property as an equivalent therefor. They are advised that it is not only contrary to the clear intention of the testator, but contrary to every principle of law and equity, that they should be ousted of the land and deprived of the price. They represent that at the time the said land was sold, your oratrix was only thirty five or thirty ^{six} years of age, and they think themselves intitled absolutely to at least a third of the price, in lieu of the whole land for life. They admit that after the death of the said Thomas Jones, your oratrix intermarried with Eli Eley, and this too after the sale aforesaid, but they are advised, that the said Eley acquired no title to the money for which the crop keys sold, since it was not reduced by him to possession in his lifetime. And if it was ^{or could be} considered as real property, he only acquired by the marriage, an estate for his own life. Notwithstanding your complaints are thus clearly intitled to a portion of the said money, the said James Gee refuses as aforesaid to ~~pay~~ pay the same to them without the intervention of this court.

In tender consideration whereof and for as much as y^r. Compts are remediless at law, they solicit the aid of your Worships.

To the end therefore, they pray that the said James Gee may be made a defendant to this bill of complaint, and that he may on his corporal oath full, true and perfect ^{answer} make to all and singular the allegations aforesaid, and that as fully as if the same were here repeated, and be thereto particularly interrogated. They lastly

pray that your worships will decree that the said James Gee pay to them such a proportion of the money for which he sold the crop keys as aforesaid in their absolute right, as may be thought agreeable to their life estate in the whole land, or that you will make such other order or decree in the premises for their ^{relief} as may be consistent with equity and justice. May it please y^r.

Nich^d. W. Pryor
v. ?

Philips Lutz
is } answer-
Gee extn }

To
To
To
To

The answer of James Gee to the ^{acting agent of Thomas Jones.} bill of complaint exhibited against him in the court of Southampton county by William Phillips and Sally his wife.

This Respondent saying to himself all right of excepting to any errors which may be in the said bill, for answer thereto or to so much thereof as he is advised is material for him to answer, says, that he has examined all the statements contained in the said bill, and believes that the facts attending the case are therein truly stated. He admits that ~~the~~ land sold for £450 on the 15th of August 1800, but he adds that the payments did not become due until afterwards, as will more fully appear by the annexed agreement which he prays may be considered as a part of this bill. It is true that he has withheld from the compt^{rs} the money which he received for the said land, but he merely did this from caution and is willing to ~~comply~~ comply with any order this court may make in the premises. He lastly prays to be hence dismissed with his costs in this behalf expended.

Southampton County N.C.

The within answer sworn to
before me this 13th day of August 1906.

AmB. Clark

3/750
250

Agreement for
Johnston &
Jas. Wilkinson

150 pound due James 1800

100 " due 25 June 1801.

166-13-4 " 25 December 1801.

166-13-4 " 25 December 1802

166-13-4 " 25 December 1803 - this sum to

750 - be paid in bond on dem. March 1804

The above sums to be paid to James
Wilkinson by Beale Johnston. The consideration
of said Wilkinson, vesting the said Johnston of
the fee simple in the Prop. Ry. tract of land
and James Geo to vest him with the fee
simple of a small piece adjoining the
same, purchased by Tom Jones - To possess to
be given of the dwelling house immediately
and the others in November & December
next - 18 - August 1800. Witness our hands
Attest

J^r Cricklow

Beale Johnston
J^r Wilkinson

1800

November 6. Paid James Wilkinson ——— £473. 5. 7

1801 Jan^y. 11 Paid James Geo ——— 49. 15. 8.

June. ——— Paid James Wilkinson ——— 64. 16. 4.

June. ——— Paid James Geo ——— 166. 13. 4.

1803 June. ——— Paid James Geo ——— 754. 10. 11.

This sum over paid James
Wilkinson in a bond ——— 4. 10. 11
deducted ——— £ 750. " "

1800.