1815-005 SOUTHAMPTON COUNTY CHANCERY PAPERS BARRETT et al VS BARRETT'S ADMINISTRATOR et al
1/1815

other surnames Barnes, Darden,

To the worshipful Court of Southampton County in Chancery sitting

Humbly complaining shew unto your worships your orator Catharine Barrett, widow & relict of Benjamin Barrett dec^d, your orators and natives Jacob Barnes and Lucy his wife, Barrett Barnes and Jane his wife and Richard Darden and Ann his wife, which said Lucy, Jane and Ann are daughters of the said Benjamin Barrett dec^d, that on the day of A.D. 1812, the said Benjamin Barrett departed this life in the said County of Southampton, having first duly made & published his last will & testament in writing, and that your orator Catharine, the Executrix therein named having refused to qualify to the said will and to take upon herself the execution & executing the same, letters of administration with the said will annexed, were, at a Court held for the said County on the day of , granted in due form of law, to a certain James Barrett; who is prayed to be made a defendant to this bill - that the said Benjamin Barrett dec^d, at the time of his death, left seven Children, to wit, your orators Lucy, Jane and Ann, the said James Barrett, Giles Barrett, Lydia Barrett and John Barrett, who are also prayed to be made defendants to this bill - that among the Devises and bequests in the said last will & testament contained, is the following - to wit. Imprimis. I give & bequeath unto my beloved wife Catharine Barrett, six hundred Dollars, also nine negroes, to wit, Charles, Miles, Jean, Moses, Peter, Dennis, Winny, Sidney and Dinah, one bed and furniture, all my household and Kitchen furniture (except the balance of the beds and furniture) her choice horse and chair, with gear, to her and her heirs for ever - I do also lend unto her, my beloved wife, one half of the tract of land I now live on, also one half of that I purchased of Jesse Barrett during her natural life or widowhood:

as will appear by an attested copy of the said last will and testament hereto annexed to which your worships are prayed as part of this bill of complaint - that after giving the rest of his land to his sons and pecuniary legacies to his daughters, the said Benjamin Barnett disposed of the remainder of his Estate by the following Residuary clause. "Item" "After all my just debts are paid, my will is, the residue of my estate, if any, should be equally divided between my daughters Jane Bacon, Lucy Bacon, Lydia Barnett & Ann Darden, also my sons Giles Barnett and John Barnett, & them & to their heirs for ever" - that your orators humbly leave to state to your worships, that among the said slaves bequeathed to your orator Catherine as aforesaid, there was, previous to the death of the said Benjamin Barnett dec^d, an increase of one - to wit, a male child of Venus, named Fred - that your orator Catherine is unwilling to claim, unless your worships should be of opinion that she is entitled to such increase - Your orators orators also beg leave to state to your worships, that after making & publishing his said last will & testament, the said Benjamin Barnett purchased two slaves, to wit, Brad and Jack which (together with the increase aforesaid) they are advised, will pass by the Residuary clause aforesaid to your orators Lucy, Jane and Ann and the aforesaid Lydia Barnett, Giles Barnett and John Barnett. The said James Barnett, admr. with the will annexed of the said Benjamin Barnett dec^d, having progressed so far with his administration, as to ascertain that none of the slaves need be sold for the payment of his testators debts, your orator Catherine has been put in possession of the slaves bequeathed to her as aforesaid, but cannot get possession of the land lent to her as aforesaid, without the aid of a Court of Equity, on account of the infancy of the said John Barnett, to whom the Fee Simple Estate in the Entire tracts, partly lent to her, is devised - and as the your orators aforesaid Lucy Bacon & Lucy his wife, Bennett Bacon & ~~John~~ Jane his wife and Reuben Darden and Ann his wife are clearly entitled, by the Residuary clause aforesaid, to their respective proportions of the said slaves Dred, Jon Venus, Fred and Jack , yet they cannot reduce the same into possession, without the aid of a Court of Equity - first, on account of the infancy of the said Lydia Barnett and Jno. Barnett - secondly, because the said slaves, not being susceptible of a division in kind, must necessarily be decreed to be sold for the purpose of distribution, according to the directions of the said will - & to end thereof that the said James Barnett admr. with the will annexed of the said Benjamin Barnett dec^d and also in his own right, the said Giles Barnett, the said Lydia Barnett and the said John Barnett (the two last named by their special guardian) may be compelled to answer all & singular the allegations of this bill and that as fully as if the same were herein again repeated & they thereunto particularly interrogated - that your worships will decree that one half of the land whereon the said Benjamin Barnett died and also one half of the land which the said Benjamin Barnett purchased of John Barnett, may be allotted to your orator Catherine, during her life or widowhood, according to the last will & testament of the said Benjamin Barnett dec^d - that your worships will also decree that the said slaves Dred Jon Venus, Fred & Jack be sold and the proceeds of the said sale equally divided between your orators Lucy, Jane and Ann and the aforesaid Giles Barnett, Lydia Barnett and John Barnett according to the Residuary clause aforesaid - that any other and general

ubey may be granted in the premises consistent with Equity & good
conscience - May it please the Court to grant the Commonwealths writ
of Subpoena commanding &c and as in duty bound [redacted]
will ever pray &c

Test for Plff.

To the worshipful Court of Scott. County in Chancery sitting. The Separate Bill
of James Barrett, as adm with the will annexed of Benjamin Barrett dec.
and also in his own right, & the Bill of Complaint Exhibited in this worshipful
Court against him, Silas Barrett, Lydia Barrett and John Barrett
by Catherine Barrett, as devisees of the said Benjamin Barrett dec, Jacob
Baker & Lucy his wife, Bennett Baker and Jane his wife and Richard
Darden and Ann his wife - The said defendants being
desiring to demur to every thing in & Exception to the said Bill, for answer
thereto saith - that the allegations in the said Bill contained are
true and that he will acquiesce in such decree as the wisdom of this
Court may dictate - The Legatees, Executors & their Counsel with ap-
proved security to attend - The charges & the same disinterested &c

(Signed) James Barrett

Barrett's
vs. Exr &c, Legatees &c
Barrett dec'd &c
Bill. ——

Scott. 1814 Sept. Term
Dismissed by Complt
1815 May Rule Day

Bandelli

adv. Gabrysen

Bandelstad.

To the Worshipful Court of South. County in Chancery sitting

The joint Separate answer of Lydia Barrett & John Barrett infant children of Benjamin Barrett dec. by James Barrett their special guardian appointed to defend them in this behalf, to the bill of complaint exhibited in this worshipful Court against them by James Barrett admr. with the will annexed of Benjamin Barrett dec., Giles Barrett & themselves, & Catherine Barrett widow & relict of the said Benjamin Barrett dec., Jane & Barnes & Mary his wife Barrett Barnes & Jane his wife & Richard Darden & John his wife &c.

The said defendants by their said special guardian saving & reserving to themselves every benefit & exception to the said bill, for answer thereto say, that the allegations in the said bill contained are true and they will submit themselves to such decree as this Court may think proper to make in the premises - and they pray to be hence dismissed &c.

James Barrett

Barrett

acc. Johnson

Barrittal.

To the Worshipful Court of South. County in Chancery sitting - The
Separate answer of Giles Barrett to the Bill of complaint Exhibited
in this worshipful Court against James Barrett admr. Com test-
mento annexo of Benjamin Barrett dec.d, Lemuel, Lydia Barrett
and John Barrett & Catherine Barrett widow relict of the
said Benjamin Barrett dec.d, Jane & Barsia and Lucy his wife,
Bennett Barnes & Jane his wife & Richard Darden & Ann his wife -

The said defendant saving and reserving to himself now
& at any time hereafter all & all manner of benefit & Exception to the said Bill, for answer thereto saith,
that he cannot gainsay the allegations in the said Bill contained
and is willing to let the decree therein prayed for shall
be rendered by this Court - and he prays to be hence
dismissed &c

Giles Barrett

Barrett &c
vs
Deane
Barrett &c
Jany 1814

Southampton January Court 1814.

Catherine Barrett widow & relict of Benjamin Barrett deceased, Jacob Barnes and Lucy his wife, Bennett Barnes and Jane his wife and Reuben Darden and Ann his wife ——— Compts.

vs.

James Barrett, as adm. with the will annexed of Benjamin Barrett dec., and also in his own right, Giles Barrett, & Lydia Barrett and Ellen Barrett by James Barrett, their Speical Guardian ——— Defts.

This cause was this day docketed by consent of the parties & upon motion of the Court and came on to be heard upon the bill, answers and arguements of Counsel, whereupon the Court doth adjudge, order and decree that Geo. Gurley, John Thomas, Enoch Everitt & Wilson Barrett or any three of them, ~~the Sheriff of this County~~ Commissioners, do allot & set apart to the complainant Catherine Barrett, widow & relict of Benjamin Barrett dec., one half of the real & land, having regard to quality as well as quantity, on which the said Benjamin Barrett lived at the time of his death, and also one half of the real & land, having the same regard ~~to~~ to quality as well as quantity, which the said Benjamin Barrett purchased of a certain Jesse Barrett, to be held by her, the said Catherine Barrett, during her natural life or widowhood, according to the ~~in~~ last will and testament of the said Benjamin Barrett dec'd.

The Court doth also adjudge order and decree that the said Commissioners or any three of them do sell at public auction, on a credit of twelve months, the following slaves, to wit, Dred (son of Venus) Dred & Jack which were owned by the said Benjamin Barrett in his lifetime

taking a bond or bonds with approved security from the purchaser or purchasers and that they decide the proceeds of the said sale equally between the complainant Jacob Barnes in right of his wife Lucy, the complainant Bennett Barnes in right of his wife Jane, the complainant Riland Barnes in right of his wife Mary, the defendant Giles Barnett, the defendant Lydia Barnett ~~(now Lydia Peterson the guardian of the same, and~~ and the defendant John Barnett taking care to pay the proportion of the said Lydia Barnett & John Barnett their respective guardians, and if they have no guardians, to hold the same subject to the further order of this Court. But this sale is not to take place, until the parties entitled to the proceeds thereof, execute bonds with approved security to the defendant James Barnett and the will annexed of the said Benjamin Barnett, dec'd to indemnify them, in case any debts should appear against the testator to render such refunding necessary. It is further ordered that the said Commissioners make report of their actings & doings in the premises to the Court in order to a final decree

Test Sam Hall

Southampton January Court 1874

Catharine Barrett, widow and relict of Benjamin Barrett dec'd Jacob Barnes and Lucy his wife Bennett Barnes and Jane his wife & Richard Darden an Ann his wife Complainants

against

In Chancery

James Barrett, as adm'r with the will annexed of Benjamin Barrett dec'd and also in his own right Giles Barrett and Lydia Barrett and John Barrett by James Barrett their Special guardian Defts

This cause was this day docketed by consent of the parties and ajsent of the court heards on the bill answer and arguments of counsel, whereupon the court doth adjudge, order and decree that George Gurley, John Thomas, Exum Everitt and Jordan Barrett or any three of them do allot and Set apart to the complainant Catharine Barrett, widow and relict of Benjamin Barrett dec'd one half of the tract of land, on which the D't Benjamin Barrett, lived at the time of his death, and also one half of the lands which the said Benjamin Barrett, purchased of a certain Jesse Barrett, having regard to quality as well as quantity, to be held by the said Catharine Barrett, during her natural life or widowhood, according to the last will and testament of the said Benjamin Barrett dec'd. The court doth also adjudge order and decree that the said commissioners or any three of them do Sell at public auction on a credit of twelve months the following Slaves (to wit, Dred, son of Venus Dred and Jack, which were owned by the said Benjamin Barrett, in his lifetime, taking a bond or bonds with approved Security of the purchaser or purchasers and that

they divide the proceeds of the said Sales equally between the complainant Jacob Barnes in right of his wife Lucy, the complainant Bennett Barnes in right of his wife Jane, the Complainant Richard Darden, in right of his wife Ann, the defendant Giles Barnett, the defendant Lydia Barnett and the defendant John Barnett, taking care to pay the proportions of the said Lydia Barnett & John Barnett to their respective guardians, and if they have no guardians, to hold the same subject to the further order of this court. But this sale is not to take place, until the parties entitled to the proceeds thereof, execute bonds with approved security to the defendant James Barnett administrator with the will annexed of the said Benjamin Barnett dec'd to refund to him in case any debts should appear against his testator to render such refunding nugary. It is further ordered that the said commissioners make report of their actings and doings in this behalf to the court in order to final decree between the parties

Teste Sam Kello C.C.

Barnes
vs.
Barnett &c
Oct. Ter. 1815 Rule vs. Defts
Interl.

Agreeable to the above decree we the undersigned Commissioners met and divided the lands of Benj.a Barnett dec'd., Also made sale of the negroes and made an equal division thereof between the above named legatees

Dec.r 24. 1814

John Thomas
Cyrus Credle
Jordan Bryant

Commissioners

Benj.a Barnetts

Will

& Copy

In the name of God Amen, I Benjamin Barrett of the County of Southampton, being deeply impressed with the Shortness of life and the certainty of eternity, have made this my last will and Testament.

Imprimis, I give and bequeath to my beloved wife Catharine Barrett Six hundred dollars also nine negroes (to wit) Venus, Miles, Jean Moses, Peter, Dennsy, Winney, Sidney and Dinah, one bed & furniture all my household and kitchen furniture (except the Balance of the beds & furniture) her choice horse and Chair with gear, to her and her heirs forever. I do also lend unto her my beloved wife one half of the tract of Land I now live on also one half of the tract I purchased of Isse Barrett, during her natural life or widowhood.

Item. I give and bequeath to my Son James Barrett, the plantation he now lives on Containing 375 acres, more or less, together with the property he now has in his possesion of mine, to him and his heirs forever.

Item. I give and bequeath to my Daughter Jane Barnes five hundred dollars in good bonds, together with the property She now has in her possesion of mine to her and her heirs forever.

Item. I give and bequeath to my Daughter Lucy Barnes five hundred dollars in good bonds, together with the property She now has in her possesion of mine to her and her heirs forever.

Item. I give and bequeath unto my Son Giles Barrett, the tract of Land I purchased of Ephraim Bryant, together with the tract (or parcel) of Land I purchased of James Bryant also the property he now has in his possesion of mine to him and his heirs forever.

Item. I give and bequeath unto my Daughter Lydia Barrett, fifteen hundred dollars in good bonds, or money, one feather bed & furniture (second choice) one horse (second choice) one chair & Harness, one Ladies Saddle, to her & her heirs forever.

1st Item I give and bequeath to my Daughter Ann Darden, two hundred and fifty Dollars in good bonds or money also the property She now has in her possession of mine, to her and her heirs forever.

2d Item. I give and bequeath to my Son John Barrett the tract of Land I now live on, also the tract of Land I purchased of Jesse Barrett, containing 33½ acres be the same more or less also one other tract of Land formerly belonging to William Jackson, containing 20 acres more or less, also twelve hundred Dollars in good bonds or money to him & his heirs forever.

3d Item. After all my Just Debts are paid my will is the residue of my estate if any Should be equally divided between my Daughters Jane Barnes, Lucy Barnes, Lydia Barrett & Ann Darden, also my Sons Giles Barrett and John Barrett to them and their heirs forever.

4th Item. Nevertheless, Should either of my afore mentioned Children die leaving no issue lawfully begotten of their bodies, their my wish is that Such Childs portion Should be equally divided among those of them which may then be living or the heirs of Such as may have died.

5th Item. I hereby nominate and appoint my beloved wife Catharine Barrett my Executrix to this my last will & Testament, revoking all former wills by me made and do by these presents acknowledge this my last will and testament this fourth day of July A. D. 1872.

Signed Sealed & Declared in presence of
John Anderson
William Hill
his
Mason X Hill
mark

Benjamin Barrett (Seal)

At a Court held for the County of Southampton the 18th day of November 1873 The testament and last will of Benjamin Barrett dec'd was presented in Court, proved by the oaths of John Anderson & William Hill, two of the witnesses thereto and ordered to be recorded (the executrix therein named refusing to take upon herself the burthen of the execution thereof) on the motion of James Barrett for administration with the will annexed who came is granted him on his giving bond and Security Whereupon &c.

Sam'l Kello Clk

A Copy

Teste James Rochelle D.C.