1817-011 SOUTHAMPTON COUNTY CHANCERY PAPERS NICHOLSON, UX, al VS. FITZHUGH 11/1817

others: Rivers

Nicholson W. & C

vs

Fitzhugh

} Bill and Answer

Septr. 19th 1815 Decree & Ord.

To the worshipful Court of Southampton in Chancery sitting.

Humbly complaining sheweth unto your worships your complainants John Nicholson and Edy his wife late Edy Rives a daughter of John Rives and and William John Rives and Robert Rives infant sons of the said John Rives and by their next friend the said John Nicholson. That the said John Rives died sometime in the year 1804. seized and possessed of a tract of land lying in this County containing by estimation 70 or 80 acres. That before his death he made and published his last will and testament whereby he devised that all his lands after the death of his wife (whose name was Nancy) should be sold and the money arising from the sale thereof should be equally divided between his three sons your two complainants John and Robert and William Rives another son of the said John Rives and. That William died in the lifetime of his mother an infant and without issue leaving two brothers your complainants John & Robert, and two sisters your female complainant Edey and Charlotte Fitzhugh widow and relict of William Fitzhugh late Charlotte Rives. That after the death of the said William, Nancy Rives the widow of the said John Rives died and the mother of the said William Rives died intestate seized and possessed (besides that tract of Land which descended to him) of a tract of land containing by estimation 40 or 50 acres and also of a tract of land containing 4 or 5 acres purchased by her after the death of her said husband John Rives. your complainants beg leave to represent to your worships that the said tract of land of 70 or 80 acres devised by the said by the last will and testament of the said John Rives, from the above statement

should be divided in such a manner as to allot to
your complainants John and Robt Rivers late Chants of the purchase money
further wholly that, and that the remaining third
part having descended to your complainants
John and Robt. and Edy and the aforesaid
Charlotte Fitzhugh, and Nancy Rivers their mother
in consequence of the death of the said William
and the Court thereupon touched the said Nancy
Rivers so entitled having descended to them all
equally by the death of the said Nancy Rivers
their mother, it should thereupon be equally divided
between your complainants by the and the said
Charlotte Fitzhugh. The will of the said John Rivers
herein before referred is hereto annexed and prayed
to be taken as a part of this bill - your complainants further
state that they together with the said Charlotte
Fitzhugh are equally entitled as the heirs of the
said Nancy Rivers to the aforesaid 40.000
acres of land, a part of the 40,000 acres
claimed by the said deed, she having
died without will. They state also that the last
mentioned tract of land is not worth one hundred
dollars a share and therefore to effect a division
it must be sold by virtue of an act of the General
Assembly in such case made and provided. In
tender consideration whereof and in as much as your
complainants are remidiless saveing in a Court of
Equity where matters of this kind are properly
cognizable they pray that the aforesaid Charlotte
Fitzhugh may be made a defendant hereto and
be compelled to answer all and singular the allegations
herein contained fully and unevasively, and they
finally pray that your worships would decree the
aforesaid conveyances of title sold in such
manner as may best promote the interest of
the parties and that the money arising from
such sale be equally divided among
them according to their respective rights. and they
shall ever pray that your worships would grant unto
them such other relief in the premises as to your
worships &c —

John Nicholson

John Nicholson for John &
Robert Rivers

To the worshipful the Court of Southampton in Chancery
sitting. The answer of Charlotte Fitzhugh late Charlotte
Rivers to the bill of complaint exhibited against her by
John Nicholson and his wife Edy late Edy Rivers
and John Rivers and Robert Rivers infant sons of
John Rivers and by the said John Nicholson their
next friend -

This respondent now and at
all times saving and reserving to herself all and every
benefit of exception to all and singular the imperfections in the
complainants bill contained for answer unto so much
thereof as it is advised is necessary for her to answer
answering saith. That she cannot gainsay the
complainants allegations and she is willing to
submit to such decree as is prayed for and she
may be hence dismissed &

John Nicholson & his wife Edy
Cate Edy Rives and John Rives
and Robt Rives infant sons
of John Rives and by their next
friend the s^d John Nicholson } Pltffs

} Ch Chaney

Charlotte Fitzhugh . . Defd

This cause being this day docketed by consent of parties
and upon the same coming on to be heard on the bill
answer and exhibits and arguments of counsel
whereupon and upon due consideration thereof had
the Court doth adjudge order and decree that David
Myerle. David Burbridge, Thomas Applewhite & Edw^d
Rease or any three of them do after giving public
notice of the time and place of sale expose to sale
on a credit of 12 months the tract of land owned
by the last will and testament of John Rives and
described, and that they divide the proceeds of
the sale in the following manner viz: Two
thirds thereof they are to allot to John the complainants
John and Robert and also one half of the remaining
third. and the balance of the remaining third
they are to allot equally between the complainant
John Nicholson & his wife and the defendant
Charlotte Fitzhugh for the payment of which
respective portions they are to take bond with
approved security and to make a title in fee simple
=ple to the purchaser of said tract of land. and it
is also further decreed and ordered that the said
Commrs or any three of them do call the creditors
of which Nancy Rives died seized in the
same event. that they divide the proceeds of

the ~~Lady~~ Sale equally between the complainants
and the defendant Charlotte Fitzhugh & securing
the payment thereof in the same manner as before
directed ~~with~~ and in regard to the ~~other~~ first mentioned
tract of land, and that they make a title in fee
simple to the purchaser ~~and~~ or purchasers thereof
and finally that they make report to this Court
in order to a final decree -

Nicholson & wife
vs
Fitzhugh
Repl. in Chy

Nov. 1814 Repl. ret. & final decree by consent

Nicholson & Wife &c
vs
Fitzhugh
Decree

At a Court held for Southampton County September 19th 1815

John Nicholson and his wife Edey late Edey Rivers and John Rivers and Robert Rivers infant sons of John Rivers dec'd by their Next Friend the said John Nicholson ---------- Plts

Against

Charlotte Fitzhugh ---------- Defts

} In Chancery

This Cause being this day docketed by Consent of parties and upon motion of the Court Came on to be heard on the bill answer and exhibits and arguments of Counsel Whereupon and upon due Consideration thereof had the Court doth adjudge order and decree that David Myrick David Westbrook, Thomas Applewhite and Edward Reese or any three of them do after giving public notice of the time and place of Sale expose to sale on a Credit of twelve Months the tract of Land devised by the last will and Testament of John Rivers dec'd to be sold and that they divide the proceeds of the sale in the following manner to wit Two thirds thereof they are to allot to the Complainants John and Robert and also one half of the remaining third and the ballance of the remaining third they are to allot equally between the Complainants John Nicholson and his wife and the Defendant Charlotte Fitzhugh for the payment of which respective portions they are to take bond with approved security and to make a title in Fee Simple to the purchaser of said tract of Land and it is also further decreed and ordered that the said persons or any three of them do sell the tracts of Land of which Nancy Rivers died seized on the same Credit that they divide the proceeds of the sale equally between the Complainants and the defendant Charlotte Fitzhugh securing the payment thereof in the same manner as before directed in regard to the first mentioned tract of land and that they make a title in fee Simple to the purchaser or purchasers thereof and finally that they make report to this Court in order to a final Decree &c

A Copy

Teste Rochelle C.

Agreable to an order of the County Court of Hampshire to us Directed bearing date September 19th 1815 We have proceeded at Publick Sale the Lands of John & Nancy Rivers Dec'd on a Credit of Twelve Months which Sales amounting to the Sum of Five Hundred and Twenty five Dollars & Eighteen Cents which Money we have Divided in the following Manner — Viz^t To John Rivers we have assigned the sum of One Hundred & Seventy Seven Dollars & fifty four Cents it being his proportionable part arising from the Sales of Said Lands — To Robert Rivers we have assigned the sum of One Hundred & Seventy Seven Dollars & fifty 4/100 Cents it being his proportionable part arising from the Sales of Said Lands — To Jn^o Nicholson & Wife we have assigned the sum of Eighty Five Dollars & four Cents it being his proportionable part arising from the Sales of Said Lands — To Charlotte Fitzhugh we have assigned the sum of Eighty five Dollars 4/100 it being her proportionable part arising from the Sales of the Said Lands — — — — — —

Given under our hands and Seals This 13th Day of July Eighteen Hundred & Eighteen — — — — — — — —

David Myrick — Seal

David Westbrook — Seal

Edward Rose — Seal

A Copy Teste J. Rochelle Cl.

John Revers

Will

A Copy

In the name of god amen I John Rivers of the county of Southampton and state of Virginia being very sick and weak of body but of sound and disposing mind and memory thanks be to god therefor do make and ordain this my last will and testament in the manner and form following to wit

Item I lend to my beloved wife Nancy Rivers after paying my just debts, all my estate of all kinds whatever that I have now in possession for the purpose of raising and educating my children

Item My desire further is, that my beloved wife Nancy Rivers dispose of all my personal estate amongst my Children to wit, Edith, John, William, and Robert when they marry or come to the age of twenty one years as she may think proper for their benefit

Item My desire further is that at the death of my wife all my lands be sold and the money arising from such sale be equally divided between my three sons to wit John, William, and Robert to them & their heirs forever

Item I give unto my daughter Charlotte Tolbugh three negroes that she hath now in possession to wit Mary Hannah and Sally to her and her and her heirs forever with all their future increase also the household furniture that she hath now in possession to her and her heirs forever

I nominate and appoint my wife Executrix and my son in law William Tolbugh executor of this my last will and testament Witness my hand and seal this 26th day of January One thousand eight hundred and four

Signed Sealed & delivered
In presence of
Benj D Dupree
Henry Smith
Gray Carrell
Benj Ward

his
John X Rivers Seal
mark

At a court held for the county of Southampton the 21st day of May 1804 this will was presented in court by Nancy Rivers the executrix there named and cont. for the executor proved by the oaths of Gray Carrell and Benj. Ward two of the witnesses thereto and ordered to be recorded, and on motion of the said executrix who made oath according to law probat is granted the executrix who gave bond and security whereupon

Teste Wells cc

A Copy Teste J Rochelle cc

John Rivers
Will
A Copy