

1835-019

SOUTHAMPTON COUNTY  
CHANCERY PAPERS

GARDNER et al. vs. GARDNER

8/1835

other surnames: Daughty,  
Daughtry, Daughtrey

Garden do.

7 2, 1810 do.

Garden do.

Atkinson

1810

1835 June - Deer as filed 4/2  
" Aug. Rept. ret<sup>d</sup> & Conf. 4/2

To the County Court of Southampton sitting in  
Chancery - humbly complaining, shews to the Court  
your orators and oratories, Elizabeth Frances &  
Barbara & Gardner infants of tender years,  
being by them lawfully received their next friends,  
and Samuel & Gardner and Solomon  
Daughters and Barbara & his wife  
~~and the said children~~

~~the two last infants of tender years being by  
them lawfully received their next friends~~  
That one Matthew Gardner late of the County of  
Southampton departed this life on or about the  
day of July or August 1827, having put in  
and published his last will and testament  
which was duly received in the County Court of  
~~Southampton~~ Southampton, an official copy of  
which is hereto annexed, marked A, his prop  
to be taken as part of this Bill - whereby the said  
testator gave his widow one third of his estate  
real and personal upon conditions therein  
mentioned - He gave a certain piece of plate  
to Miriam Gardner & Samuel R Gardner each, &  
fifty dollars cash to Miriam R Gardner  
and gave the balance of his estate to his  
daughters Barbara & Daughters and his 3  
children John, Samuel and Margaret Daughters  
and the testator directs that the estate given to  
his wife at her death be divided between  
all his children thereafter named in the  
said will. The widow died on or about  
the day of — Decr 1835, and the said  
Miriam R Gardner departed this life since  
the death of the testator and before the life  
estate of the widow terminated and she  
has left the two infants aforesaid to wit  
Elizabeth Frances and Barbara & Gardner  
who are entitled under the laws to the share  
to which the said Miriam would be entitled  
were she living - upon the state of facts recited  
the laws held by the widow for her life  
belong since her death to the following  
persons in the following shares - to wit,



to Elizabeth Francis Gardner & Barbara E  
 Gardner jointly as representives the same to  
 Maria Gardner one fourth, to Lemuel N Gardner  
 one fourth, to Nelson Gardner one fourth, &  
 one other fourth part to Solomon Daykley  
 and Barbara E his wife, but you complai-  
 nants represent that the land is worth  
 but little more than two thirds than \$200  
 to each share and the land is so situated  
 that to divide it in kind would materi-  
 ally injure those entitled - they therefore  
 pray, they are without remedy except  
 in this Court, that the said Nelson N Gard-  
 ner be made defendant ~~in this~~  
 suit, and be compelled to answer the  
 same, and that you will appoint  
 a court or courts of your own and direct  
 a sale of the land aforesaid on such  
 terms as to the Court may seem best  
 and direct the proceeds to be paid  
 over to the parties respectively entitled  
 and that you will make any other  
 order the order in the premises,  
 which may comport with equity be  
 and as in duty bound they ever  
 pray.

A. Atkinson  
 p. 9

The separate answer of Nelson N Gardner to  
 the bill of complaint exhibited in the County  
 Court of W. Va. against him by Elizabeth  
 F Gardner and Barbara E Gardner & others  
 - This defendant for answer, says he  
 believes the statement in the bill of the  
 complainants is true and that he  
 has no reason to except against the  
 same prayed for - ~~and~~ Nelson N Gardner

Elizabeth F and Barbara E Gardner  
 infants, resp by Lemuel Daykley  
 this suit proceeds to this - p. 11  
 Nelson N Gardner - p. 12

This cause came on to be heard on  
 the bill, answer and exhibit filed  
 and was argued by counsel; on consid-  
 -ration whereof the Ct. both adj: ord. and  
 decree that Lemuel N Gardner  
 after giving at least 30 days notice of the  
 time and place of sale, by advertisement  
 posted at the door of the Court House of  
 this County and at other public places,  
 make sale on a credit of 9 - months,  
 (except for so much as will be received  
 to pay the cost of suit & expenses of the  
 sale) <sup>which will be for (the)</sup> the tract or parcel of land which  
 lies in this County, and which ~~was~~ <sup>is</sup> ~~held~~ <sup>held</sup>  
~~on~~ <sup>as</sup> down in the names of ~~Elizabeth~~ <sup>Elizabeth</sup>  
 Gardner and: by Mary Gardner decd:  
 which lands are bounded by the lands  
 of Col. Wm. Leop, Rev. Crumpler Nelson N  
 Gardner & the heirs of Maria N. Gardner  
 that of the purchase, the cor. take bonds  
 with good security payable to the parties  
 respectively entitled, and pay over  $\frac{1}{4}$  to  
 Elizabeth Francis Gardner,  $\frac{1}{4}$  to the said  
 Barbara E Gardner,  $\frac{1}{4}$  to Nelson N  
 Gardner,  $\frac{1}{4}$  to Lemuel N Gardner and  
 the other  $\frac{1}{4}$  to Solomon Daykley and  
 his wife Barbara in her right, that  
 upon the payment of the money here secured  
 to the satisfaction of the parties, the said cor.  
 will make a deed for the said land to the  
 purchasers but without warranty of  
title - and make report to the Court  
 in order to a final decree &

Gardner &

in S Report

Gardner &

1835 Aug. Ret<sup>d</sup> & Corp<sup>d</sup> &

In obedience to an interlocutory decree 'Garner and others against' Garner pronounced at the June term 1835 by the County Court of Southampton, and thereto annexed, your Commissioners having advertised the time and place of sale of the tract of land in the bill mentioned, by three several advertisements other than the one which was posted up at the door of the Court house of said County, all of which were posted up at least thirty days previous to the day of sale, proceeded on Saturday the 25th day of July 1835, on the premises, and sold the same to the highest bidder, as by said decree directed; when Hardy Croft became the last bidder and purchaser of the said tract or parcel of land for the sum of \$525.00

Your Commissioners then deducted \$10 the att. fee of  
 4¢ the Clk. fee & \$26.25 your Commissioners 5% Cent \$40.25 40.25  
 leaving a balance of net proceeds of \$484.75

Your Commissioners then took five separate bonds from Hardy Croft with his security  
 namely

One bond payable to the Secy of Eliz <sup>th</sup> S. Garner for	\$60.59 $\frac{3}{4}$
One ditto payable to the Secy of Barbara E. Garner for	\$60.59 $\frac{3}{4}$
One ditto payable to Nehem B. Garner for	121.18 $\frac{3}{4}$
One ditto payable to Lemel B. Garner for	121.18 $\frac{3}{4}$
One ditto payable to Solomon Daughtry for	121.18 $\frac{3}{4}$
	<u>\$484.75</u>

which will account for the purchase money aforesaid all of which is respectfully submitted.

Given under my hand the 1st day of August in the year of our Lord 1835. Samuel Rhurdner



Harmon He  
" } Copy Source  
Harmon

Southampton June Court 1835-

Elizabeth Frances and Barbara E Gardner infants of tender years  
being by Solomon Daughtry their next friend and Samuel R Gardner  
and Solomon Daughtry and Barbara E his wife.

Plffs

In Chancery

Dft

against  
Nelson R Gardner

This cause came on to be heard on the bill, answers exhibit filed and  
was argued by counsel: On consideration whereof the Court with a judge, order  
and decree that Samuel R Gardner after giving at least 30 days notice of  
the time and place of sale, by advertisement posted at the door of the Court  
house of this County and at other public places make sale on a credit of  
nine months (except for so much as will be required to pay the costs of suit  
& expenses of the sale) which shall be for cash the tract or parcels of  
land which lies in this County, and which was held as donee in the  
lands of Matthew Gardner dec<sup>d</sup>; by Mary Gardner dec<sup>d</sup>; which lands are  
divided by the lands of Colo: Hardy Croft, Esq<sup>r</sup>; or simpler, Nelson R  
Gardner & the Heirs of Ulrich O Gardner. That of the purchase the Court  
take Bonds with good security payable to the parties respectively entitled  
and pay over  $\frac{1}{2}$  to the Guardian of Elizabeth Frances Gardner  $\frac{1}{4}$  to the  
Guardian of Barbara E Gardner.  $\frac{1}{4}$  to Nelson R Gardner  $\frac{1}{4}$  to Saml R Gard-  
ner; and the other  $\frac{1}{2}$  to Solomon Daughtry and his Wife Barbara  
in his right, that upon the payment of the money being secured to  
the satisfaction of the parties, the said Court will make a deed for  
the said land to the purchaser but without general Warranty of title  
and make report to the Court in Order to a final decree &c.

A Copy  
Jesse James Rockwell Clk