1848-005 SOUTHAMPTON COUNTY CHANCERY PAPERS

GARDNER'S GUARDIAN VS. GARDNER + al

11/1848

other SURNAMES: Ricks, SUMNER, Gurley

Garens: garden
ar 3
Gulsar 4 ar

August Rules 1827.

Benjamin Deane
Mills Jr Amanuensis

Virginia, Circuit judicial circuit,

To the honorable Richard H Baker judge of the circuit superior court of law and chancery for the county of Southampton in chancery sitting —

Humbly complaining sheweth unto your honor your orator [illegible] M Gentry guardian of Martha Gardner, only child distributee and heir of William Gardner deceased, that the said William Gardner departed this life some time in the year 1846. intestate having some personal property, and a small tract of land situate lying and being in the county of Southampton near the Ajoupy bridge on Nottoway river, containing by estimation 75 or 80 acres —

That Martha Gardner the ward of your orator is an infant of very tender years & many years must elapse before she attains full age, or will be old enough to marry, that notwithstanding the said tract of land with the premises she has not attained the age of fourteen but is only about ten years of age and that on the event of her death Sr Thos J Gardner would be heir of the said real estate

That the said tract of land is the only real estate to which she is entitled, and that the only personal estate to which she is entitled consists of $ about $1,000 personal property as will appear by a copy of the [illegible] hereunto annexed as a part of this bill valued at $ 1,000 or upwards —

That during the long minority of the said Martha the said tract of land with the premises and appurtenances would have to be rented out for as much as could be obtained for the same and perhaps to tenants, or rather

hands, it would in all probability be greatly
injured and improved in value, as all experience
goes to shew, whereas if it could now as your
orator believes be sold for a fair price —
Under these circumstances, your orators &
apprehend that the interests of his said ward
Martha Gardner would be promoted by the
immediate sale of the said tract of land
To the end therefore, that such sale may
be made, if in the opinion of this court
that the interests of the said Martha Gardner
manifestly requires the sale of the said
tract of land, your orator prays that the
said Martha Gardner may be made defend-
ant to this bill with such proper words
to charge her and that she answer the same
(through some suitable person, appointed your
orator as to him) & defend &c. as this court
and that Arthur Gardner

who would be the heir to the said real
estate in the event of her death, may also be
made defendant with such proper words
to charge him and that they likewise an-
swer the same upon oath that your orator
pronounce a decree for the sale of the said
tract, & for such other & further general relief
touching the premises, as may be consonant
to the rules of equity and agreeable to the
provisions of the act of assembly in such
case made and provided, and that the com-
monwealth's writ of subpoena may issue &c.
& your orator will ever pray —

Packer p.q.

It is ordered by this court that
that Clerk is no longer, upon the said
bond by which the persons be bound
be kept up, and that he would here
be by himself for the purpose, &
let the persons go accordingly &c —

Gardner

v.

Bill

Gardner

1847

October Rules. — Bill
Joziah Maury appt. Gr. and Guard
filed — answer of infant Defts. filed
G. Rep. & answer of Dft. abscinded
by consent of Plff —

" Dec. Decree as pr. decree filed

1848. Mem: Report.

To the worshipful county court of Southampton
in chancery sitting

Humbly complaining
sheweth unto your worships your orator John M
Gurley guardian of Martha Gardner only child distrib-
utee and heir at law of William Gardner dec'd
that the said William Gardner departed this life some
time in the year 1846 intestate leaving some personal
estate and a small tract of land being and lying in the
county of Southampton near the Gypsy bridge on
Nottoway river containing by estimation 75 or a 100
acres of land that Martha Gardner the ward of your
orator is an infant of very tender years and many
years must elapse before she arrives at the age of 21
years or is old enough to marry that she has not
attained the age of fourteen years but is about ten years
old and that in the event of her death without Gardner
would be her only heir to the said real estate that
the said tract of land is the only real estate to which she
is entitled and that the only personal estate to which
she is entitled is about a $1000 personal estate
as will appear by an account of sales filed herewith
and which is prayed to be taken as a part of this
bill that during the long minority of the said Martha
the said tract of land with its premises and appurtenances
would have to be rented out for as much as could
be obtained for the same and perhaps to various
tenants in whose hands it would in all probability
be greatly injured in value as all experience in the
renting out of land in this section of the country
goes to show whereas if could now as your orator
believes be sold for a fair price under the circumstances
your orator is of opinion that the interest of the said
ward would be promoted by the sale of the said

tract of land In tender consideration whereof and
inasmuch as your orator is without remedy at law
and only entitled to relief in a court of chancery
when such matters are peculiarly cognizable
he therefore humbly prays in order that the sale
may be made if in the opinion of the court that the
interests of the said ward would manifestly require
the sale of the said land that the said Martha
Gardner be made a party defendant to this bill with
apt and proper words to charge her and that she
answer the same though some apt and proper person
appointed by the court guardian ad litem to defend
her in this suit and that Cobbins Gardner who
would be heir to her real estate in the event of
her death be also made a party defendant to this
bill and that your worships would compel them
as full and perfect answer make to the allegations
therein contained as if they had been thereunto
more fully and particularly interrogated and that
the court would decree the sale of the said tract
of land if upon satisfactory proof they may deem it
right and expedient and that your worships may
grant such other and general relief as may be
consonant to the rules of equity and agreeable to the
acts of assembly in such case made and provided and
as in duty bound your orator will ever pray &c

Thomas Jr.

Southampton County to wit

This day personally appeared before me a justice of the peace for the aforesaid county John M Gurley complainant in the above bill and made oath to the truth of the facts stated in the above bill to the best of his belief and knowledge given under my hand this 2nd day of October in the year 1827.

G A W Newsom J.P

Sanders

ads Z. Answer &

Sanders et. Sanders

1824 Oct Rules. Filed by

Consent Tipp

Separate answer of Cotthum Gardner to a bill exhibited in the county court of Southampton by John M Grizzly guardian for Martha Gardner

This defendant for answer to the said bill or so much thereof as he is advised it is material for him to answer answering says that he is willing that the court should grant the decree prayed for in the plaintiffs bill and that he thinks the interest of the said infant Martha Gardner would be promoted by the sale of the said land and having fully answered prays to be hence dismissed with his costs &c

his
Cotthum X Gardner
mark

Jurdann

adj 2d answer &

Sundries Money &c due

1847 Oct Rules

To the worshipful county court of Southampton
in chancery sitting

The separate answer of
Martha Gardner an infant of tender years by
Josiah Bryant her guardian ad litem

and this defendant for
answer to the said bill or so much thereof as he
is advised it is necessary for him to answer
answering says that he believes the facts set
forth in the Plaintiffs bill to be true but he
places the interest of his ward under the care
of the court whose peculiar duty it is to protect
the interest of infants and having answered
prays hence to be dismissed with his costs &c

Thanes

Southampton County to wit

This day personally
appeared before me a justice of the peace
for the aforesaid county and made oath that
the facts set forth in the above answer are
true to the best of his belief and knowledge
given under my hand this 4th day of October
1847

Lem P Nicholson JP

Gardner
vs 3 Decrs
Gardner

184 December Court.

Gardner
vs Decree
Gardner

This day this cause came on to be heard on the bill of the plaintiff depositions, exhibits filed and the answer of the defendants Corthum Gardner and the infant Martha Gardner by Josiah Mcamy her guardian ad litem and was argued by counsel upon the hearing whereof the doth adjudge ordn and decree that John McGinley be appointed a special commissioner to sell the tract of land lying near by Jeffs bridge whereon William Gardner dec'd died seized and possessed containing by estimation 100 acres of land that the said John McGinley after having given due notice of the time and place of sale by advertisement at the court house door of this county and other public places provided to sell the said tract of land at public auction to the highest bidder for enough cash to defray the expenses of this decree and the balance of the purchase money on a credit of one and two years the purchaser giving bonds with approved security for the purchase money and a lien to be retained upon the land until all the purchase money shall have been paid. But no sale is to be made under this decree until the guardian of Martha Gardner shall have executed a bond with sufficient security in the penalty of $1.500 payable to the commonwealth of Virginia with a condition to invest the money arising from the sale of the land as fast as it shall come to hand by lending it out taking bonds with good security, and make report to the court in order to a final decree

Gardners gdw

v. } 60: Deres

Gardner

Southampton December Court 1847.

John M Gurley guardian of Martha Gardner Pltff.
against
Martha Gardner by Josiah Money her guardian ad litem and Arthur Gardner. Defts. } In Chancery

This day this cause came on to be heard on the bill of the plaintiff, depositions, exhibits filed and the answer of the defendants Arthur Gardner and the infant Martha Gardner by Josiah Money her guardian ad litem and was argued by Counsel. Upon the hearing whereof the Court doth adjudge, order and decree that John M Gurley be appointed a Special Commissioner to sell the tract of land lying near Cypress bridge, where of William Gardner dec'd died Seized and possessed containing by estimation 100 acres of land - that the said John M Gurley after having given due notice of the time and place of sale by advertisement at the Courthouse door of this County and other public places proceed to sell the said tract of land at public auction to the highest bidder for moneys cash to defray the expences of this decree, and the balance of the purchase money on a credit of one and two years, the purchaser giving bonds with approved security for the purchase money and a lien to be retained upon the land until all the purchase money shall have been paid - But no sale is to be made under this decree until the guardian of Martha Gardner shall have executed a bond with sufficient security in the penalty of $1500 payable to the Commonwealth of Virginia with a condition to invest the money arising from the sale of the land as fast as it shall come to hand by lending it out taking bonds with good security - and make report to this Court in order to a final decree -

Clks Costs .. $5.19
Shffs Fs 2.50
Law fee Fs 10.50
$ 17.99

A Copy
Teste. L R Edwards cc

656

Gardners Gon

vs. } Spa. ni. Chy

Gardner

1847 September Rules

Execution

on Arthur Gardner
and Mary Gardner
not found
William Meyer
Dpy for Jacob
Barnes Sheriff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

Mary Gardner & Arthur Gardner

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in September. next, to answer a Bill in Chancery exhibited against her in the said Court by

John M Burley guardian of Martha Gardner

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 2d day of August 184~~7~~, in the 72d year of the Commonwealth.

L R Edwards clk

[*One Copy to be delivered each Defendant.*]

Gardners Gen

& } Commission

Gardners &c

The Commonwealth of Virginia: To

~~To~~ a Justice of the Peace for Southampton County — **Greeting:**

Know ye that we trusting in your fidelity and provident circumspection in diligently examining whatsoever witnesses as well on behalf of the plaintiff as on behalf of the defendants in a suit in Chancery depending the County Court of Southampton between John M Purley guardian of Martha Gardner Plaintiff & Martha Gardner by Josiah Maury her guardian and Litem & Arthur Gardner Defendants ——————

command you, ~~or any two or more of you,~~ that at such day and place as you shall appoint, you assemble yourself~~s~~, and the witnesses ~~aforesaid~~ before you, you call and cause to come, and diligently examine on the Holy Evangelist of Almighty God, and their examinations into our said Court distinctly and plainly without delay you send and certify enclosed returning also this writ. Witness, ~~James Rochelle,~~ Thos R Edwards Clerk of our said Court, at the Courthouse this 11th day of November 1847 in the 72nd year of the Commonwealth.

T R Edwards cc

Gardiners G.

To Lt Notice

Gardiner

Mrs Josiah Many guardian ad litem of Martha Gardner
and others Gardner Take notice that I shall on
saturday the 13th of November 1847 at the office of
William B Shands in the town of Jerusalem between
the hours of sunrise and sunset proceed to take the
depositions of Mills J Summa and others to be read as
evidence in a suit in chancery now pending in the
county court of Southampton County in which I am
plaintiff and you are defendants at which time and
place you may attend if you think proper

yours

November 10th 1847 Isham M Gurley

Southampton County towit

This day personally appeared before me
William B Shands and made oath that he notified Josiah
Many personally and left a copy of the notice with
Arthur Gardners wife having first read and explained
it to her the said Gardner being from home
given under my hand this 13th day of November 1847

Geo. W. Newsom D.C.

Gardiner Gen
4 3
Gardiner &c

Commissions & Depositions

Came to hand Nov 15/1847

25/1/25 a

Robt Ricks being duly sworn upon the Holy Evangelists of Almighty deposes and says as follows

I think the interests of the infant Martha Gardner would be promoted by a sale of the land left to her by her father it is a small tract of land with but little timber upon it not sufficient in my opinion to keep it under a fence for any length of time I am decidedly of the opinion that the land will be injured and its value impaired by being rented out until Martha Gardner comes of age and further your deponent saith not

Robt Ricks

Sworn to and signed before me a justice of the Peace for the county of Southampton this 13th day of November 1847 Seal D Nicholson J P

Depositions of Mills D Summer and others taken at the office of Wm B Shands in the Town of Jerusalem on the 13th of November 1847 between the hours of sunrise and sunset in the presence of Josiah Mabry guardian ad litem of Martha Gardner after notice duly given to be read as evidence in a suit now pending in chancery in the county court of Southampton between John H Gurley plaintiff and Josiah Mabry guardian ad litem of Martha Gardner and Arthur Gardner defendants

Mills D Summer having been first duly sworn upon the holy Evangelists of Almighty God deposeth and saith as follows

I think it would be to the interest of the infant Martha Gardner that the land left her by her father should be sold the said land having but little timber on it. and I also think that the said land would be injured and impaired in its value by being rented out William Gardner her father having kept the land in heart by much labour and expence.

M D Summer

Sworn to and signed before me a justice of the peace for the county of Southampton this 13th day of November 1847

G A W Dawson J P

Gardners bdy

5 3 3 Spinichy

Gardner

October Rules.

Executed

William Magot

Depy for Jacob

Barnes Sheriff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Martha Garnett and Arthur Garnett

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in October next, to answer a Bill in Chancery exhibited against them in the said Court by John M Gurley Guardian to Martha Garnett

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 21st day of September 1847, in the 72d year of the Commonwealth.

L R Edwards C C

[*One Copy to be delivered each Defendant.*]

Commissioners Report

1818 Nov. 6th

The undersigned appointed special commissioner by the court to sell a tract of land lying near the Cypress bridge in Southampton County containing 100 acres whereof William Gardner died seized and possessed begs leave to state to the court that after having given due notice of the time and place of sale in the manner required by the decree he did on the 3rd day of January 1848 proceed to sell the same on the Terms required by the decree at which sale Bennet Stevens became the purchaser for the sum of five hundred dollars (500) that enough cash was required viz the sum of $46.18 commissions and costs of the suit to defray the expenses of the suit and sale and the balance of the purchase money secured by bond and good security to be paid in two equal annual payments of one and two years all of which is

Respectfully submitted
by John M Gurley Spl Com

September 21st 1848

Gardners 4 dw

is } Bond

Commencable

Know all men by these presents that we John M Gurley guardian of Martha Gardner & George A W Newsom ——— are held and firmly bound unto the Commonwealth of Virginia in the just and full Sum of fifteen hundred dollars: to the payment whereof we bind ourselves our heirs. executors and administrators jointly and severly firmly by these presents. Sealed with our Seals and dated this 3rd. day of January 1848.

The Condition of the above obligation is such that whereas the Court of Southampton County at the December Term thereof in the year 1847 by a decree rendered in a chancery suit depending therein between John M Gurley guardian of Martha Gardner plaintiff and Martha Gardner by Josiah Maury her guardian ad litem and Arthur Gardner defendants did appoint John M Gurley a special commissioner to sell the tract of land lying near Cypress bridge whereof William Gardner dec'd died seized and possessed containing by estimation One hundred acres of land." but no sale was to be made under the said decree until the guardian of Martha Gardner should have executed a bond with Sufficient security in the penalty of $1500 payable to the Commonwealth of Virginia with a condition to invest the money arising from the sale of the land as fast as it shall come to hand by lending it out &c Now if the said John M Gurley guardian of Martha Gardner shall invest the money arising from the sale of the land directed to be sold by the decree aforesaid referred to, as fast as it shall come to hand by lending it out taking bonds with good security. then the above obligation to be void or else to remain in full force and virtue—

Signed sealed & acknowledged before
L R Edwards

J. M Gurley (Seal)
G A W Newsom (Seal)