1858-027 SOUTHAMPTON COUNTY CHANCERY PAPERS

GARDNER + al, by + c vs. GARDNER

2/1858

other surnames: Johnson, Jones

389.

Gardeners &c

as 3

Gardener

1856 Del. Deere as field.

1857 Feby Jane. Resp. ~~rel. & bonfr.~~

" June " Confm.

Bill, Anson, and Deem.

1858 Feby Resp. & Deere

To the worshipful county court of Southampton County in chancery sitting

Humbly complaining your complainants Williams Abbey, Faustina and Mary Gardner infants of tender years who sue by Gardnan E. Johnson their next friend show unto your worships that in the year 1854 Everett Gardner of Southampton County departed this life intestate leaving considerable estate both real and personal and leaving Mary Gardner his widow and your complainants his four infant children his distributees and heirs at law

That among other things he left a small tract of land lying in Southampton County containing about fifty acres purchased from Jno M Jones commissioner your complainants have instituted this suit for a division of the said land, but they state that the tract is so small that after allotting the dower interest ~~lawyer~~ age worth up thereof $300 a share the dowers shares would be valueless as there are no houses on the land and all the timber has been cut off. They therefore ask that it may be sold for a division among their heirs at law

Their tender consideration whereof and inasmuch as your complainants are without remedy in a court of law and only entitled to relief in a court of equity where such matters are cognizable They therefore humbly pray that Mary Gardner the widow of Everett Gardner dec'd may be made party defendant to this bill and compel her as full and perfect answer make to the allegations therein contained as if she had been thereto more fully and specially interrogated that the court would direct a sale of the land the widow consenting and a division of the purchase money according to the rights of the parties and that the court would grant such other and general relief the premises considered as equity may dictate and the nature of this case may require and as in duty bound your complainants will ever pray &c

Thanks J. G.

The answer of Mary Gardner to a bill in chancery in the county court of Southampton brought against by William Gardner who sues by next friend

This defendant for answer to the said bill or as much thereof as she is advised it is material for her to answer answering says that she admits the allegations of the plaintiffs bill and is willing that the tract of land mentioned should be sold but down understanding the court making her such an allowance in the purchase money in fee simple in lieu of dower as to them may seem right and having fully answered prays hence to be dismissed with her costs &c

Thanks for the
defendant

Gardner by &c
Wm B. Deane
Gardner

By consent of parties this day this cause came on to be heard on the bill and answer and was argued by counsel on the hearing whereof the court doth adjudge order and decree that Goodman E Johnson who is hereby appointed special commissioner for that purpose shall after having given at least ten days notice of the time and place of sale by public advertisement at the court house door and some place in the immediate neighborhood of the land, proceed to sell on the premises at public auction to the highest bidder the tract of land lying in Southampton county containing by estimate fifty acres of land whereof Everett Gardner died seized and possessed on the following terms to wit, sufficient of the purchase money in cash to defray the costs of this suit and expenses of the sale the residue on a credit of six months taking from purchaser bond with approved security and retaining the title until the purchase money shall have been paid the said commissioner is directed to execute to the purchaser a deed for the land, and the court doth further adjudge order and decree, that the commissioner on collecting the said purchase money shall allot to the widow one fifth part thereof in lieu of dower and divide the residue into four equal parts and allot to the lawful guardian of William Gardner one fourth allot to the lawful guardian of Abby Gardner one fourth allot to the lawful guardian of Faustina Gardner one fourth and allot to the lawful guardian of Mary Gardner one fourth and report his proceedings to court in order to a further decree

But the said Goodman E Johnson is not to act under this decree until he shall have executed in the clerks office of this court a bond in the penalty of two hundred and fifty dollars conditioned as the law directs

Gardner

v. } Co. Decree

Gardner

Southampton County Court October Term 1856.

William, Abbey, Faustina and Mary Gardner infants of tender years who sue by Goodman E. Johnson their next friend

Pffs

against

Mary Gardner

Deft

In Chancery.

By consent of parties this day this cause came on to be heard on the bill and answer and was argued by Counsel on the hearing whereof the Court doth adjudge, order and decree that Goodman E Johnson who is hereby appointed Special Commissioner for that purpose, shall after having given at least ten days notice of the time and place of sale by public advertisement at the Courthouse door and some public place in the immediate neighbourhood of the land, proceed to sell on the premises at public auction to the highest bidder the tract of land lying in Southampton County containing by estimate fifty acres of land whereof Everitt Gardner died seized and possessed on the following terms to wit Sufficient of the purchase money in cash to defray the costs of this suit and expenses of the sale, the residue on a credit of six months taking from purchaser bond with approved security and retaining the title until the purchase money shall have been paid the said Commissioner is directed to execute to the purchaser a deed for the land. And the Court doth further adjudge, order and decree that the Commissioner on collecting the said purchase money shall allot to the widow one fifth part thereof in lieu of dower and divide the residue into four equal parts and allot to the lawful guardian of William Gardner one fourth, allot to the lawful guardian of Abbey Gardner one fourth, allot to the lawful guardian of Faustina Gardner one fourth and allot to the lawful guardian of Mary Gardner one fourth and report his proceedings to Court in order to a further decree.

But the said Goodman E Johnson is not to act under this decree until he shall have executed in the Clerks Office of this Court a bond in the penalty of two hundred and fifty dollars conditioned as the law directs.

Clks Costs $3.50

Recd payment

ERE

A Copy

Teste. L R Edwards Clk

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20
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91

Gardner
vs 3 Deeds
Gardners

1859 Feby Court.

Jardine,
vs Z Deed
Jardine

This day This cause came on to be further heard on the report of the commissioner Goodman E Johnson and to which no exceptions have been filed and the court confirming the sale and report, doth adjudge, order, and decree, That Goodman E Johnson the commissioner, make to Julia Holland a deed for the land in the first decree mentioned with special warranty

Pursuant to the annexed decree Gardner against Gardner pronounced at the October Term 1856 by the County Court of Southampton: Your Commissioner having advertised the time and place of sale of the tract of land in the bill mentioned by several advertisements posted up at the most public places in the neighbourhood, and one at the Court house door, at least ten days previous thereto, proceeded on Saturday the 10th day of January 1857 and sold, on the premises, at public sale, the tract of land whereof Everitt Gardner died seiz'd & poss'd, said to contain Fifty acres more or less, when William P. Moore became the last bidder and purchaser for the sum of $236.00

Your Comm'r then deducted $10 the allow: for $3.50 the Clk's fee, and $11.80 the Commissions on the sales making 25 30

leaving a balance of $210.70

Your Comm'r then took five separate bonds from Wm P. Moore with Wm G. McGee his security for the sum of $42.14 each, payable six Mos after date, and to the parties as by said decree directed to wit,

One payable to Mary Gardner (the widow) for 1/5 . . . . . $42.14

One D° to Wm Gardner for 1/4 of the balance 42.14

One D° to Abby Gardner for D° 42.14

One D° to Paulina Gardner for D° 42.14

& One D° to Mary Gardner (the daughter) for D° 42.14

$210.70 which accounts for the purchase money afores.

Respectfully submitted.

Goodman & Johnson
Com'rs.

Gardner
vs 3 Boom Report
Gardner

1858 Feby Court

Gardner
as 3 Commissioners Report
Gardner

Com Commissioner Goodman E Johnson begs leave to report in addition to the report made by him at the Febry Term and confirmed at the June Term 1857, that by the terms of the sale he was directed to retain the title until all the purchase money for the land was paid, Wm P Moon the purchaser having become insolvent after the execution of his bond, the commissioner with the consent of the said Wm P Moon who was unable to pay for the said land, sold it again to Julia Holland a free negro woman for the sum of ($236) two hundred and thirty six dollars who has paid the purchase money and he now asks a decree of the court directing him to make a deed to her for the land, all of which is respectfully submitted by

Goodman E Johnson Com

KNOW ALL MEN BY THESE PRESENTS, That we Goodwin E Johnson &c

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of Two hundred pds Dollars, current money of Virginia, to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 15 day of December A D. 1856

The Condition of the above Obligation is Such, That if the above bound

Goodwin E Johnson who is appointed Commissioner by a decree of the County Court of Southampton in the case Gardner &c Gardner &c

shall faithfully discharge the duties of his said office or trust according to law, then the above obligation to be void, or else to remain in full force and virtue.

Signed, Sealed and delivered in the presence of the Court.

G. E. Johnson L.S.

Ellis Harcum L.S.

L.S.

L.S.