

187H34

SOUTHAMPTON COUNTY
CHANCERY PAPERS

HERBERT and Wife vs. BRIGGS et al

7/1871

606.

Herbert & wife

Oct 3

Briggs et al.

Bill, Answer

Jocue -

1869. Dec. Decree as filed

1871 Feb'y Report

" July - " Confm?

To The Worshipful County Court of South-
-ampton, in Chancery sitting. Dec. Term
1869.

Humtly complaining shew unto your
worships your Complainants, Maximilian
Herbert and Eugenia his wife, that
the father of your oratrix Bernst L. Briggs
was in his lifetime seized and possessed
of certain real estate lying in the County
of Southampton - and being so thereof
seized and possessed, sometime in the month
of January 1869, departed this life
intestate leaving your oratrix and six
other children his heirs at law, to-wit,
William, Benjamin, Ann, Rebecca, Bina
and Effie Briggs. That all of them are
infants, under the age of twenty one years,
except your oratrix -

And your oratrix further states, that
a portion of the said real estate, as
she believes, is susceptible of partition
amongst the parties entitled thereto; but
if none of it be susceptible of partition
then your oratrix desires the same to be
sold and the proceeds distributed amongst
the parties, in proportion to their respective
interests therein.

Your oratrix states that there is a mill
situated on the said real estate, and then

believes that the said mill with two or three hundred acres of land lying north of the said Mill-run cannot be divided in kind without injury to the interests of those entitled - That the said mill is not now in good condition, and if allotted to any of the infant defendants and run out, will in all probability depreciate very much - Your oratrix believes, therefore, that it will be to the interest of all the parties that the said mill with all the land lying north of the Mill-run should be sold and the proceeds divided amongst the parties entitled -

In tender consideration of all which, and for as much as your oratrix is immediately in the premises, done in a Court of Equity where matters of this kind are peculiarly cognizable, it is prayed that William, Benjamin, Ann, Rebecca, Bina and Effie Briggs be made parties defendant to this bill.

That a proper guardian ad litem be appointed to defend their interests in this suit. That the said real estate or such portion of it as may seem best to your oratrix be divided in kind amongst those entitled, and the portion of your oratrix allotted to her, and if the same or any portion of it cannot be divided in kind, then it is prayed that it

be sold and the proceeds divided amongst the parties entitled - That your oratrix will desire such other further and several reliefs as the nature of her case may require, or to equity shall seem meet, and your oratrix and ever pray &c.

Cobb J. G.

The answer of Benjamin William, Ann, Rebecca, Bina and Effie Briggs infants, by J. E. Selwell their guardian ad litem assigned them by the Court to defend their interests in this suit, - to the foregoing bill -

These defendants having & desiring to themselves all benefit of just exception to said bill, answer and say, that being infants under twenty one years, they submit their interests to the care and protection of the Court, and having answered pray to be hence dismissed &c -

Maximilian Herbert & Eugenia his wife
vs

William, Benjamin, Ann, Rebecca, Bina and Effie Briggs, infants under the age of twenty one years, by J. E. Selwell their guardian ad litem - This day this cause came on to

be heard ^{by consent of parties} on the bill of the Complainants
and answer of the infant defendants by
J. E. Schell their guardian ad litem, general
replication thereto, and was argued by Counsel,
On consideration whereof the Court doth adjudge,
order and decree that Wm. H. Nicholson,
Jesse L. Bailey, William A. Bell, Jos. W.
Ungersbach and John B. Barrett be appointed
Commissaries, (any three of whom may act)
to divide the real estate of which Bennett
S. Briggs died seized and possessed, not allotted
to his widow as dower. That they allot to
Eugenie Herbert one seventh ^{part, in value} of the land,
lying south of the Mill-pond and
Mill-run, and the remainder to William
Benjamin, Ann, Rebecca, Binda and Effie
Briggs, and report to this Court, and that
the said Commissaries employ a Competent
Surveyor if they should deem it necessary.
And the Court doth further adjudge, order
and decree that the same Commissaries report
to this Court, whether, in their opinion, it
would be best for the interests of all parties
concerned to divide the land with the mill
attached lying north of the Mill-pond and Mill
run in kind amongst the parties entitled,
or whether it would be best to sell the same,
and report the same to Court with
any ^{other} matters which they may deem
pertinent and necessary.
And the Court doth further order, that if

The said Commissioners should be of opinion
that it would be to the interests of all
parties concerned to divide all the real
estate of which Bennett S. Briggs died seized
or possessed, except the portion allotted to his widow
as dower, then the said Commissioners shall
allot one seventh part in value to Eugenia
Herbert, and the remainder to the default
defendants, and report the same to Court.

Southampton County Court, December Term 1869.

Herbert & Wife

vs.

Briggs &c.

Plffs.

Defts.

In Chancery

This day this Cause came on to be heard by Consent of parties, on the Bill of the Complainants and answer of the infant Defendants by J. E. Sebell their Guardian ad litem, general replication thereto, and was argued by counsel, on consideration whereof, the Court doth adjudge, Order and decree that W^m St. Michaelson, J. Geo L. Bailey, W^m A. Bell, Joseph W. Waggoner and John B. Barrett be appointed Commissioners (any three of whom may act,) to divide the real Estate of which Bennett S. Briggs died seized and possessed, not allotted to his widow as dower. That they allot to Eugene Herbert two Seventh parts in Value of the land lying South of the Mill pond and Mill run, and the remainder to William, Benjamin, Ann, Rebecca, Bina and Effie Briggs, and reports to this Court; and that the said Commissioners employ a Competent Surveyor if they should deem it necessary. And the Court doth further adjudge, Order and decree, that the same Commissioners report to this Court, whether in their Opinion, it would be best for the interests of all parties concerned to divide the land with the Mill attached lying North of the Mill pond and Mill run, in kind amongst the parties entitled; or whether it would be best to sell the same; and report the same

to Court, with any other matters which they may deem
pertinent and necessary. And the Court doth further
Order that if the said Commissioners should be of
Opinion that it would be to the interests of all parties
concerned to divide all the real Estate of which Bennett
S. Briggs died seized & possessed, except the portion
allotted to his Widow as above, then the said Commissioners
shall allot one Seventh part in value to Eugenia Her-
bert, and the remainder to the Infant Defendants and
report the same to Court.

Attest

Essex

James R. Tyler, J.C.
11

Herbert & wife

vs.

Briggs &c

Sealed

Herbert H. H.
My 3 blue
Bridgeton.

To be entered
J. W. H. H. H.
July June 1871

Herbert & wife
vs
Buggs et al -

This day this cause came
on to be again heard on the papers
formerly read, and on the report of
Commissioners Wm H. Richardson, J. L.
Bailey, W. A. Bell and John B.
Barrett to which report no exceptions
have been filed, and on consideration
whereof, the court doth adjudge,
order and decree that the said
report be confirmed.

Tested and signed
at the Court House
of the County of
Jefferson
this 10th day of
August 1881
J. H. [illegible]

1871 Feb. 6th.

To the Hon. Judges of the County Court of Southampton, Va.

We the undersigned Commissioners appointed by the County Court of Southampton at its December Term 1869 to divide the real estate of which Bennet S Briggs died seized and possessed, except the portion allotted to his widow as dower, beg leave to report that they deemed it to be ~~the~~ the interest of all parties concerned, not to sell any of the aforesaid real estate, and allotted to Eugenia Herbert as one seventh part in value thereof, the following land, to wit;— Fifty six acres, one rood and eight poles, lying east of the main road, and adjoining the lands of Jos W. Ughhart & the dower tract, and also nineteen acres lying on the west side of the main road and adjoining the land of John S. Cooker, the lines of which are now to be run and designated.

We further report that we found it necessary to employ a competent surveyor at an expense of twenty dollars.

February 9th 1871-

Wm. H. Nicholson
J. Bailey
Wm. A. Ball
John B. Barrett