

1874 - 11

Southampton County - Chancery -

Clayton, Geo M ^{et al} vs Clayton, Murdock ^{et al}

"Sale of Real Estate
in divided property"

Geo. M. Clayton
Augustus A Clayton
James H. Pruseon
Richard W. Clayton
Thomas M^cClenny
James A. M^cClenny
John M^cClenny
Peter Ashburn
Judith Ashburn
his wife
Richard Clayton
son of Jas. E.
Clayton decd.

Murdock Clayton
+
Robert M. M^cClenny

Killy Tom
Ro. m. Clayton sal.

n. { Bee
Murdock Clayton
Sal..

1873 May Rules

South. Co. et.

To the Hon. J. W. Murchant, Judge of the
County Court of Southampton County.

Complaining, shew unto the Court your
Complainants, Ro. M. Clayton, Augustus A.
Clayton, James W. Prepon, Richard W. Clayton,
Thomas McElenny, James A. McElenny, John
McElenny, ~~John~~ Ashburn & North his wife,
and Richard Clayton (son of Jas. E. Clayton deceased),

Your Complainants respectfully
represent to the Court and say —

1. That Julius J. Clayton of said County
died on the day of Intestate, & within
five, and under twenty one year of age, possessed
of a tract of land in said County, devised to
him by his father James Clayton deceased —
which parcel of land contains 458 —
acres, more or less, and adjoining the Land
of W. Lafayette Stephens, Rich^d. Clayton and
the Seacock Swamp;

That the said Julius J. Clayton having
died under twenty one year of age, & having
obtained the said Land from his father, the
said James Clayton, the same descends to his
nearest of kin on his father's side who are
as follows —

1. His Brother of the whole blood, Augustus A. Clayton;
2. Ro. M. Clayton (above named) a brother of the half blood;
3. Murdoch Clayton a Brother of half blood;
4. Rich^d. W. Clayton (above named) a brother of half blood;

5. Richard Clayton, son of Jas. E. Clayton, a brother of half blood;
6. Jas. H. Prepon son of Lucy Clayton by — Prepon, who a sister of half blood
7. and ~~John~~ M. Cleary, Jas. A. M. Cleary, John M. Cleary, No. M. Cleary, and Edith M. Cleary, now wife of Peter Ashburn, being children of — M. Cleary, late wife of Jas. M. M. Cleary, who was a sister of the half blood.

Your Complainants further say, That they desire a partition or sale of said land — That a partition is wholly impracticable & inconvenient and against the interests of the parties, but a sale or allotment would be best for all parties.

Your Complainants pray that the Court may appoint suitable persons to value said land, to make an allotment thereof to such of the parties as may be willing to take the same & pay to the others their share of the same, or that a sale at auction may be made, as may be deemed best.

In consideration whereof and as this Court has jurisdiction to grant all adequate relief, To the End your Complainants pray That Mervod Clayton and Robert M. Cleary (the last under twenty one years of age) may

be made defendant unto & answer the
allegations herein, and that the prayers
of your Complainants may be granted &
that such other and further relief may
be granted, consistent with Equity &c

John R. Kelly Son
p. v.

Clayton & al:

n.

Clayton & al

answer of
No. 7 in clayton
by J.D. and
Lester.

1873. May 18

The answer of Ro. McHenry, to a Bill in
Chancery, filed in the County Court of Smith-
ampton, by Ro. M. Clayton & others, against
Mendock Clayton & others Respondent

The said Ro. McHenry answering by
L. R. Edwards his guardian ad litem,
he being under 21 years of age.

This Respondent says he is under
21 years of age, and ignorant of his rights in
the premises, and submits the same to the
Court, and prays that no order or decree
may be made in the cause inconsistent
with his rights.

(signed) L. R. Edwards Gon. J.

1874 March 16 Recd the fee
of \$25 due me John R. Kelly

Clks fees \$9.18 paid LRE doards
Shff 1.00 paid W. C. Dorey
Law \$25.00 \$35.18

Clayton

Clayton
to E. Dorey
dece

Received of Augustus W. Clayton the amounts to which we are respectively
entitled under the within decree

Recd Feb 6/74 of Augustus A. Clayton the
amts to which we are respectfully entitled under
the within decree

John McGlenny
Robert McGlenny

Wm M. Clayton
R. A. Clayton
Thos Brister Actg Atty for
R. M. Clayton - Kentucky.
Jas H. Prater

R. W. Clayton
James M. McGlenny
for Judith Ashburn
Thomas McGlenny
James A. McGlenny

Southampton Circuit Court Number Term 1873.

Re: M. Clayton Augustus A. Clayton, James St. Phipps, Richard M. Clayton, Thomas McLunny, James A. McLunny John McLunny Peter Ashburn & Judith his wife & Richard Clayton son of James E. Clayton.

Plaintiffs

against

Mordock Clayton & Robert McLunny and infant by SR, Edwards his guardian ad litem.

Defendants

In Chancery

This cause came on this day to be again heard on the papers formerly read, and on the report of M. R. Butler, R. M. Stephenson and S. B. Kelle made pursuant to the decree of the June term 1873, of Southampton County Court to which report there is no exception, and was argued by counsel. On consideration whereof the Court doth confirm the said report, and doth adjudge order and decree that Augustus A. Clayton take & hold the Land referred to in the proceedings for the price of Nine hundred dollars and out of the same he pay first the costs of this suit, including a fee of \$25 to John R. Kilby & Son, attorneys in the case, and then pay out of the residue of the said \$900, to himself (Augustus A. Clayton) two eighths thereof, To R. H. M. Clayton one eighth thereof, To Mordock M. Clayton one eighth thereof, To Richard M. Clayton one eighth thereof, To James St. Phipps one eighth thereof, To Richard Clayton one eighth thereof, and to Thomas McLunny, James A. McLunny, John McLunny, Robert McLunny and Judith Ashburn together one eighth the share for R. McLunny to be paid to him on arriving to 21 years of age or to his guardian and report to Court with statement of payments and evidence of the payments aforesaid.

Attest

Teste, S. R. Edwards doct. Clk

"

Clayton &

(17)

Clayton & Co

Report of
Payments

1874 March 16

Let them make
Receipts

To the Circuit Court of Southampton County

The undersigned Reports to the Court,
That pursuant to the Decree of said Court made
at Nov. Term 1873, in the cause of Ro. M. Clayton
and others against Murrell Clayton &c. he has
paid to the several parties the several sums as
named in said Decree, as per receipts on the
annexed Decree - to wit:

To paid Augustus A. Clayton	$\frac{2}{8}$ of \$900 ^{900.00} ~~by \$35.18~~ $\frac{1}{8}$ $\frac{216.22 \frac{1}{2}}$
" " Ro. M. Clayton	$\frac{1}{8}$ " " 108.10 $\frac{1}{4}$
" " Murrell M. Clayton	$\frac{1}{8}$ " " 108.10 $\frac{1}{4}$
" " Richard M. Clayton	$\frac{1}{8}$ " " 108.10 $\frac{1}{4}$
" " Jas. H. Prepon	$\frac{1}{8}$ " " 108.10 $\frac{1}{4}$
" " Rich ^d . Clayton	$\frac{1}{8}$ " " 108.10 $\frac{1}{4}$
" " Moma M. Clenny,	} $\frac{1}{8}$ " " 108.10 $\frac{1}{4}$.
Jas. A. M. Clenny,	
Jno. M. Clenny,	
Ro. M. Clenny,	
Indith Ashburn	

Total - \$864.82

Mar. 16 1874.

Respectfully submitted

A. A. Clayton

(Allen Augustus Clayton)

121

Clayton J.
to } Stat. Rules

Clayton J.

Letter Costs C. C. \$4.28
Shiff 1.00
Law

Letter Costs C. C. 4.90

Received by Clerk Circuit
Court Aug. 13th 1873.

In Southampton County Court

Ro. M. Clayton Augustus Clayton James H. Prepon, Richard
M. Clayton Thomas M. Clumny James A. M. Clumny John M. Clumny
Peter Ashburn & Judith his wife & Richard Clayton son of Jas. E.
Clayton

against.

Murdock Clayton & Robert M. Clumny an infant by S. R.
Edwards her guardians ad litem.

1873 April 29 Summons issued

May R. Summons ret. Executed Bill filed. S. R. Edwards
assigned for ad litem to infant Def. Ans. Inf. Dft. B. Rep. D. Nisi to
Dft. M. Clayton.

June R. Bill taken for Conf. as to Dft. M. Clayton & Cause set for
hearing of

Bt Decree

Nov. Decree confirming rep

1874 Mar 16 Report.

June Rep. Conf. & Cause removed from the Docket.

To The County Court of Southampton

The undersigned respectfully report to the Court, that they have executed the decree of the said Court, made at June Term 1873, in the Cause of Clayton & others against Clayton & others, now report the result of their action,

Augustus A. Clayton agreeing to take the land at our valuation of nine hundred dollars, of which amount he is entitled $\$8$ in his own right, and will pay to Robt. M. Clayton $\$8$. to Murdock M. Clayton $\$8$. to Richard M. Clayton $\$8$. to Richard Clayton $\$8$. to James H. Peckon $\$8$. to Thomas M. Clemmey, James A. M. Clemmey, John M. Clemmey, Robert M. Clemmey & Judith Ashburn $\$8$.

all of which is most respectfully Submitted

Oct. 21st 1873

M. D. Lusk

R. M. Stephenson

S. B. Hill

Concurred

Dorchester County Court, June Term 1873.

Robert M. Clayton, Augustus W. Clayton, Jas H. Phipps,
Richard W. Clayton, Thos. McClung, James A.
McClung, John McClung, Peter Hedden, and
wives, and Richard Clayton son of Jas H. Clayton dec'd. Plffs.
against

Murdoch M. Clayton & Thos. McClung an Infant. Dfts.

This Cause came on this day to be heard on the bill of the Complainants
taken for Compulsory as to Murdoch M. Clayton, on whom process had been
duly served and he still failing to appear and make defence, and
on the answer of the Infant defendant by his Guardian ad litem,
general replication thereto and was argued by Counsel; On Consi-
deration whereof the Court doth, adjudge, order and decree, That
Milton S. Butler, R. M. ^{13.} Clayton, Samuel Keady, and Geo. W. Spring
who are hereby appointed Commissioners for that purpose, (any three
of whom may act) proceed to make partition of the Land
referred to in the proceedings and described as a tract of
Land of Two hundred and fifty eight acres, More or less, of
which James H. Clayton died seized and possessed, adjoining the
Lands of W. Lafayette Stephens, Richard Clayton and Seacote
Swamp, and apportion to each of the following parties having
reference to value and quantity, as follows; To Augustus W. Clayton,
1/8 to Robert M. Clayton 1/8 to Murdoch M. Clayton 1/8 to Richd.
W. Clayton 1/8 to Richard Clayton 1/8 to Jas H. Phipps 1/8 to Thos.
McClung, Jas A. McClung, John McClung, Robert M. C.
-luney and Judith Hedden, 1/8 apportion the whole tract of
Land aforesaid to such of the parties as will accept the same

and pay to the other parties their respective shares of the value
thereof, but if no such partition can be made and the two
will accept an allotment of the same, then the said
commissioners will report to the Court whether or not the sale of
said land would best promote the interests of all parties,
and make report to Court.

Attest

James R. Tyler, J. C.

Blaylock
to
Blaylock
Report

1873 Oct. 25

Executed by delivering in: M
Clayton a Copy of this Commission
on the 5th day of May 1873

A. H. Cobb for
W. W. Briggs Shff

1873 May Rules

Clayton

Clayton & Son's Dry Goods

Wm. W. Briggs

The Commonwealth of Virginia

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU to summon

an infant

Merricks M. Clayton & Ro. McGlenny

if *they* be found within your bailiwick, to appear at the Clerk's Office of our *County*

Court of Southampton county, at the Rules to be holden for the said Court on the first Monday in

May next to answer a bill in Chancery exhibited against them in our said Court by Ro. M. Clayton. Augustus W. Clayton, Jas. A. Prepon, Richard W. Clayton, Tho. McGlenny, Jas. M. McGlenny, John McGlenny, Peter Ashbarn & wife & Richard Clayton son of Jas. E. Clayton dec^d

And have then there this writ. Witness LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, this *29* day of *April* A. D. 187*3*, in the *97* year of the Commonwealth.

L. R. Edwards Clk

of said after and to each of the parties
as will accept the same & pay to the other
parties their respective shares of the
value thereof, but if no such partition
can be made and no one will accept
an allotment of the same, then the said
Commrs. will report to the Court whether
a sale of said Land would best promote
the interests of all parties, and
make report to Court.

Re. M. Clayton & Co.

40

Murdoch Clayton

1873

Gene Co. Ct.

Decree

2 Sisters

J. M. W. S. J. J. J.

Clayton sal:

n,

Clayton

This cause came on this day to be heard on the Bill of the Complainant, taken in confessed as to Murdoch M. Clayton, in whom process had been duly served & he still failing to appear & make defence, & on the answer of the Infant Defendant by his guardian ad litem, ^{general} Replication thereto, & was argued by Counsel. On consideration whereof the Court doth advise, order & decree that Milton D. Butler, R. W. Stephenson, ^{James Kello} ~~Samuel Kello~~, & Geo. W. Spring, who are hereby appointed commissioners for that purpose (any three of whom may act) proceed to make partition of the Land referred to in the proceedings and described as a tract of Land of four hundred fifty eight acres, ^{of which Julia A. Clayton died seized & possessed} more or less, in said County, & adjoining the Lands of W. Lafayette Stephens; Rich^d. Clayton and Seacock Swamp, and assign to each of the following parties, having reference to value & quantity, as follows — To Augustus A. Clayton $\frac{1}{8}$ — To Ro. W. Clayton $\frac{1}{8}$ — To Murdoch Clayton $\frac{1}{8}$ — To Rich^d. W. Clayton $\frac{1}{8}$ — To Rich^d. Clayton $\frac{1}{8}$ — To Jas. H. Phipps $\frac{1}{8}$ — To Thos. McElenny, Jas. A. McElenny, John McElenny, Ro. McElenny, & Joseph Arkburn together $\frac{1}{8}$ — ; & assign the whole tract

Clayton &
v.

Clayton sal.

1874

Am. Cir. Ct.

final decree

to be entered.

Geo. B. Lord.

Clayton &

n

Clayton &

This cause came on this 20th to be again heard on the papers formerly used in the report of payments made by ~~deputy~~ ^{to} S. S. Clayton under the decree of Mr. Term 1873 of this Court, made in this cause, ~~and it is~~ to which report there is no exception now argued by Counsel. On consideration thereof, and it appearing to the Court that the said S. S. Clayton has paid to the several parties as directed by said decree, ~~the several~~ ^{the several} ~~sums~~ ^{sums} ~~on them~~ ^{on them} both adjudge order & decree that the said report be confirmed, and that Titistom R. Edwards (who is hereby appointed a special commissioner for that purpose) execute a deed with special warranty to said S. S. Clayton of the real estate referred to in the proceedings & taken by him by allotment & paid for by him as aforesaid and nothing further remaining to be done in the cause it is ordered that the same be removed from the docket.

Clayton

r

Clayton &c

1873

Am. Cir. Ct.

Decree

To be entered

Geo. B. Lord

Clayton & v. Clayton &c.

This cause came on this day to be again heard on the papers formally read from the report of Mr. D. Butler, R. M. Stephenson & S. B. Kells made pursuant to the decree of the June term 1873 of Southampton County Court - to which report there is no exception, and was argued by Counsel. On Consideration whereof the Court doth confirm the said report, and doth adjudge over and decree that Augustus A. Clayton take shold the Land referred to in the proceedings for the price of nine hundred dollars, and out of the same ~~in the payments by him~~, first he pay first the Costs of this suit, including a fee of \$25 to John R. Killy Esq. Attorney in the case, and then pay out of the Residue of the said \$900, to himself (Augustus A. Clayton) two eighths thereof; To Robt M. Clayton one eighth thereof; To Mordock M. Clayton One eighth thereof, To Richard W. Clayton one eighth thereof, To James H. Prepon one eighth thereof, To Richard Clayton One eighth thereof, and to Thomas M. McElenny, James A. McElenny, John McElenny, Robert M. Elmy & Judith Ashburn ^{the share for No. McElenny to be paid to him on January 6 21 years of age or after provided} together one eighth, & make report to Court with statement of payments & evidence of the payments aforesaid

Kelly Sm

Clayton

in 3 days

Clayton fac

1874

June 6th