1891-04 Southampton County Chancery - Everette, Jos. D. vs Crichton, M. A. E. etals

Sale of real estate to promote welfare of Infant

Guardian of - Everette, M. A. M.

Crichton, E. W.
" , R. H.
" , Sallie
" , Estelle
Everette, B. W.
" , Kate
Everette, M. A. M. -
W. H. Parker - G. A. L.

To Hon. C.W. Hill, Judge of the Circuit Court of Southampton — In Chancery.

Humbly complaining showeth unto your Honor your Complainant Jas. S. Everett, Adm. of M. Ann Everett, that Elizabeth Little, late of the County of Southampton, was in her life-time seized and possessed of considerable property, among which was a certain tract or parcel of land lying in said County, containing 1159 acres, more or less, and adjoining the lands of W.B. Westbrook & S.R. Westbrook and others, and being so thereof seized & possessed, departed this life in or about the year 1857, leaving a last will and testament, whereby she directed that the said plantation be kept up during the natural life of her daughter, M.A.E. Crichton, and that at the death of the said M.A.E. Crichton the same be sold & the proceeds equally divided between the lawful issues of the said M.A.E. Crichton, all which will more fully appear from a copy of said last will & testament herewith filed as an exhibit, marked

"A" & prayed to be read as a part of this bill; that the said M.A.E. Crichton is still alive and has the following children still alive, to-wit, E.W. Crichton, R.H. Crichton, Sallie Crichton, Estelle Crichton and Kate Everette, the wife of B.W. Everette; that in or about 1881 your complainant was united in marriage with Margaret M. Crichton also a daughter of the said M.A.E. Crichton, who bore to him one child, named the ward M.A.M. Everette, and then departed this life. That the said ward M.A.M. Everette has no Real Estate except her vested right in the said tract or parcel of land, which said vested right takes effect in possession at the death of the said M.A.E. Crichton, and she has no personal estate whatever. That your complainant has conditionally sold the said interest of his said ward in the said tract of land to E.W. Crichton in the sum of $400.00, provided the sale can be confirmed by this Court. That in the opinion of your complainant the sale is a good one and would be greatly

to the interest of the said infant, because the proceeds which would be derived from the said sale properly invested would yield an annual profit to the said infant, whereas she now receives nothing whatever from her interest in the said land. That in the event of the death of the said infant, the said ~~said~~ M.A.E. Crichton, E.W. Crichton, R.H. Crichton, Sallie Crichton, Estelle Crichton, and Kate Everette, the wife of B.C. Everette, would be the heirs-at-law and distributees of her estate - That the rights of no person would be violated by the said sale - In tender consideration whereof and inasmuch as your complainant is without remedy save in a Court of Equity where such matters are properly cognizable, to the end therefore that justice may be done, your complainant prays that M.A.E. Crichton, E.W. Crichton, R.H. Crichton, Sallie Crichton, Estelle Crichton, B.C. Everette and Kate, his wife, and M.A.M. Everette, be made parties defendant to this bill and required to answer the same, that a proper guardian ad litem may be appointed to defend the rights of said infant; that the said

sale may be confirmed and the proceeds arising thereon properly invested for the benefit of the said infant. That all proper orders and decrees may be made; and for such other relief as the nature of the case may require or to Equity shall seem meet. And your Complainant will ever pray &c.

May it please the Court &c.

Prince & Sebree p.q. } J. S. Everett, Sol.

Everett Sol. &c. 37
vs.
Bill Exhibit.
Crichton et als.

Prince & Sebree, p.q.

Jos. S. Everett, Gdn of
M. A. M. Everett - Pltff
against
Margarett A. E. Crichton,
E. W. Crichton, R. H. Crichton,
Sallie Crichton - Estella Crichton,
B. W. Everetto + Kate, his wife, and
M. A. M. Everett, the last named
an infant of tender years - by
W. H. Parker, her Gdn ad litem. } In Chancery -
Defts -

1888. Sept. 24. Summ: to 1st Oct. Rules:

" 1st Oct: Rules: Process ret? Execut? bill filed -
W H Parker, appt Gdn ad litem.
~~bill taken for confessed as to adult~~
~~Defts~~ - decree nisi as to Adult Defts.

" 2. Oct " Bill taken for Confessed as to
answer of Gdn ad litem filed, see explanation
Adult Defts, + Cause set for
hearing ~~as to adults~~.

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Everett's Gdn & al

vs. Stat: Rules

Crichton & als:

1 Oct. Rules

Southampton Circuit Court: May Term 1859.

Everett's G'd'n &c
vs
Lorrichton et als

Decree

This day this cause came on to be heard upon the bill of complainant taken for confessed as to the adult defendants exhibits there with filed, the answer of the infant defendant by guardian ad litem, and was argued by counsel. On consideration whereof, the Court doth adjudge, order and decree that it be referred to one of the Commissioners of this Court to inquire into and report to the Court.

1st Whether the interest of the infant defendant will be promoted by the sale of her vested right in the tract or parcel of land in the bill mentioned & a proper investment of the proceeds arising therefrom.

2nd Whether the right of any person will be violated by such sale. Which inquiries the Commissioner shall make a report to the Court together with any matters specially stated deemed pertinent by himself or which may be required to be stated by any interested party.

A copy Teste B. F. McLemore C.C.

Everett's Gdin
vs
Notice
Crichton et: als:

1889. Oct. 15."

Executed Oct 16th/89
by delivering a
specimen of this
copy to each of the
within named parties
except Jos S Everette.
he Everette not
found.

T W Applewhite Dy shff
for
J W Williams shff

W L Gillette - Witness - $1.06
G. L. Dunn - 1.46
J. S. Joyner - 1.46

Commissioner's Office,

Jerusalem, Va., Oct. 1 1889

To Jos. S. Everett, Gdn of M. A. M. Everett - Margaret A. E. Crichlow - E. W. Crichlow - R. H. Crichlow - Sallie Crichlow - Estello Crichlow - B. H. Everett & Kate his wife and M. A. M. Everett, an infant &c.

You are hereby notified that I have fixed upon the 15 *day of* October *next, if fair, if not, the next fair day thereafter (Sunday excepted), to take and settle, at my office, the following accounts, to wit:*

1st, Whether the interest of the infant defendant will be promoted by the sale of her vested right in the tract or parcel of land in the bill mentioned & a proper investment of the proceeds arising therefrom.

2d. Whether the rights of any person will be violated by such sale.

required to be taken by a decree of Southampton Circuit Court, rendered at the May *term, 188*9*, in a suit in chancery depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.*

Given under my hand, as Commissioner in Chancery of said Court, the day and year first aforesaid.

B. F. McLemore

Commissioner.

To the Sheriff of Southampton County to execute.

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Everetts Lydia

vs

Report.

Crichlow & als:

1889. Oct. 15 filed.

The Depositions of W. J. Gillette & others taken by B. F. McLemore, Comr in Chancery of the Circuit Court of Southampton Co. Oct 15. 1889. to be read as evidence in the Chancery Cause of Everett's G'dn vs Brighton & als:

Present: Prince & Sebrell, Attys for Pltff:

The Witness W. J. Gillette, being duly sworn, deposeth as follows:

Q: What is your age, residence & occupation and do you know the parties to this suit and the tract of land in the bill mentioned?

A: My age is 63 years - reside in Southampton Co. by occupation a farmer. Know the parties to the suit and know the tract of land.

Q: Do you think the interest of the infant M. A. M. Everett would be promoted by a sale of her interest in said land at the price agreed up. and a proper investment of the proceeds for her benefit?

A: Yes. I think it would.

Q: Do you know of any one whom

rights would be violated by such sale?

A: I do not.

And further this deponent saith not.

Wm. J. Gillette

The Witness Geo. A. Dunn, being duly sworn, deposeth as follows:

Q: What is your age, residence and occupation, do you know the parties to this suit and the tract of land in the bill mentioned

A: My age is 40 years. reside in this County. am a farmer by occupation, know the parties to the suit and the tract of land mentioned.

Q: Do you think the interest of the infant defendant, M. A. M. Everette, would be promoted by a sale of her interest in said land. and a judicious investment of the proceeds for her benefit?

A: I think it would.

Q: Do you think the rights of any party interested. would be violated by such sale?

A: I do not think any body will be hurt by the sale.

And further this deponent saith not.

Geo A Dunn

The witness Jos. E. Joyner, being duly sworn - deposeth as follows:

Q: What is your age, residence, occupation - do you know the parties to this suit and the tract of land in the bill mentioned?

A: My age is 50 years - resider in Southampton am a farmer - know the parties to the suit, and the tract of land.

Q: State whether the interest of the infant defendant, M. A. M. Everett would be promoted by a sale of her interest in said land, at the price agreed upon - and a proper investment of the proceeds?

A: I think it will be to her interest to sell and think the price offered ($400.00) is all the land is worth.

Q: Will the rights of any person be violated by such sale?

A: I think not.

And more this deponent saycth not.

J. E. Joyner

Commissioner's Office
Courtland - Va.
Octo 15th 1889.

To the Circuit Court of Southampton Co.
In obedience to a decree of the Circuit Court of Southampton County - rendered at the May Term 1889. in the Chancery Cause of Everett's Guardian vs Brighton & als: the undersigned, one of the Commissioners of said Court. to whom the aforesaid decree has been referred, reports to Court: that on the 1st day of Octo 1889, he issued Notices against the several parties to said suit - and also Subpoenas against W. J. Gillette, Geo. E. Dunn and J. E. Joyner, as Witnesses - requiring them to appear before him, at his Office, in Courtland, on the 15th day of October 1889. that said Notices have been returned duly Executed - and that said Witnesses appeared in obedience thereto. Whereupon the Commissioner proceeded to inquire and report:

1st Whether the interest of the infant defendant will be promoted by a sale of her vested right in the tract or parcel of land in the bill mentioned

& a proper investment of the proceeds arising therefrom.

2°. Whether the rights of any person will be violated by such sale.

From the depositions of the witnesses, filed herewith - and to which the attention of the Court is specially directed - it will be seen that it is to the interest of the infant - M. A. M. Everetto, that her right in the land mentioned in the bill, should be sold, and that $400.00 is a fair price for the same. And, in as much as it is also shown, by the depositions of the witnesses, aforesaid - that the rights of no person will be violated, the Confirmation of the sale of said infant's interest in said land - at $400.00 (that being the amount agreed upon) is respectfully recommended.

Respectfully Submitted.
B. F. McLemore
Comr in Chancery

Comr's fee $5.00
chg: to Plaintiff.
Witnes: N. J. Gilletto. $0.50
Geo. E. Dunn. $0.90.
J. E. Joyner. $0.90.

Will of

Elizabeth A Little

Exhibit "A"

A Copy

In the name of God amen.
I. Elizabeth A. Little of the County of Southampton State of Virginia being feble of body but of sound mind do publish this as my last will and Testament in manner and form as follows, I write.

Item 1. It is my will and desire that all of my just debts be paid out of my Estate by my Executor, who I shall hereafter proceed to appoint, as soon as convenient after my decease.

Item 2. It is my will and desire furthermore that my sd Executor proceed to pay out of money arising ~~out of~~ the proceeds of my estate the following sums as momentos of regard and friendship to wit. To my niece Virginia Bilbrow the sum of twenty dollars, to my esteemed friend Phebe Rollings the sum of twenty five dollars - also to Peter Ann Petway the sum of seventy dollars, and to my relative M. A. M Peters the sum of ten dollars to them and their heirs forever.

Item 3. It is further my will and desire that my plantation be kept up during the natural life of beloved daughter Margarette A. E. Britchton, that all of my slaves a sufficiency of stock and every thing necessary to keep up the plantation be reserved for that purpose. and further, that such things as shall

not be necessary for the keeping up of said plantation shall be sold by my said Executor as soon as he may think best after my decease

Item 4. It is further my will and desire that the money arising from the sale of such surplus of my estate with all due me after the payment of my just debts, the settlement of my estate and the legacies given in item 2nd, be loaned out at interest or placed in some safe Savings Bank at interest by my s'd Executor, and the annual interest arising therefrom with the annual net proceeds from my plantation, the one half of which I give to the support and special benefit of my beloved daughter Margarette A. E. Brichton & family, and the other half of annual interest and net proceeds be expended annually on the education of the lawful issues of body of my beloved daughter M. A. E. Brichton during her natural life or until the youngest of said lawful issues shall be educated. Then and in that event it is my wish that said interest and proceeds be added to the general deposits

Item 5 It is further my will and desire that in the event of the death of my beloved daughter Margarette A. E. Brichton that all my negro slaves with their increase be equally divided between her said lawful issues, and furthermore

that my plantation with all of farther estate of every kind be sold and the proceeds arising from said sale with entire amount at interest be also equally divided between said lawful issues, and in the event of the death of either of said lawful issues before arriving at lawful age or marriage, then and in that case I give and bequeath his or her part to be equally divided between the surviving ones to them and their heirs forever.

Item 6. I appoint lastly my esteemed friend Wm. D. Westbrook the executor to this my last will and testament and farthermore request that the duties of Agent or Curator as the case may be, may devolve upon him.

Given under my hand and seal this the 11th day of ~~December~~ (aug) one thousand eight hundred and fifty five.

Elizabeth A. Little her mark (Seal)

Witness.
Wm. D. Westbrook
Jenny Pettway
Wm. his X mark Marks

At a Circuit Court held for the County of Southampton, the 3rd day of May 1856.

The last will and Testament of Elizabeth A. Little deceased was produced in Court

and proven according to law by the oaths of Wm B. Westbrook and Wm Marks two of the subscribing witnesses thereto, and is ordered to be recorded. And Wm B. Westbrook the executor named in the said will, having appeared in Court and required to take upon himself the burthen of the execution thereof. On the motion of James E. Brighton, who made oath and together with Robt R. Jones Thomas J. Hicks and John S Harris his securities, (which said securities severally by Littleton R. Edwards their attorney, acting under a power of attorney under the hands and seals of the said securities) entered into and acknowledged a bond in the penalty of twenty five thousand dollars, conditioned as the law directs, Certificate is granted the said Jas. E. Brighton for obtaining letters of administration on the said decedents estate with her will aforesaid annexed in due form.

Teste L. R. Edwards C.C.

A Copy

Teste: B. F. McLaurine C.C.

Everett's Gón re-

to ⲙ

Reichtum et ab-

The answer of Wm. H. Parker, Guardian ad litem to the infant defendant, M. A. M. Everett, and the answer of the said infant defendant, M. A. M. Everett, by the said Wm. H. Parker, her Guardian ad litem, to a bill in equity exhibited against the said M. A. M. Everett and others, in the Circuit Court of Southampton County by Jos: S. Everett, Guardian of M. A. M. Everett.

For answer to the said bill the said Guardian ad litem answers and says that he does not know whether the interest of the infant defendant would be promoted by the sale of the property as prayed for in the said bill or not: and the said infant defendant, by her said Guardian ad litem, answers and says that being an infant of tender years she knows nothing of the matters mentioned in the bill, and commits the protection of her interest to the Court. And now having answered, she prays &c.

Wm. H. Parker, G'd'n ad litem to M. A. M. Everett, and the said M. A. M. Everett, an infant defendant, by the said Wm. H. Parker, her G'd'n ad litem.

Everett's Gdn &c.,
vs. } Decree.
Crichton et al.

May term 1889
To be entered —
C M Hill
May 6. 1889

Oct — 15 —

Prince & Stevens,
P. Q.

Everett's Adm'r &c.,
vs. } Decree.
Crichton et als.

This day this cause came on to be heard upon the bill of complainant, taken for confessed as to the adult defendants, exhibits therewith filed, the answer of the infant defendant by guardian ad litem, and was argued by counsel. On consideration whereof, the Court doth adjudge, order and decree that it be referred to one of the Commissioners of this Court to inquire into and report to the Court,

1st. Whether the interest of the infant defendant will be promoted by the sale of her vested right in the tract or parcel of land in the bill mentioned, & a proper investment of the proceeds arising therefrom.

2nd. Whether the rights of any person will be violated by such sale. Which inquiries the Commissioner shall make & report to the Court together with any matters specially stated deemed pertinent by himself or which may be required to be stated by any interested party.

Form No. 309.

Sebrell

to { COMMISSIONER'S BOND.

Commonwealth.

1891. Jany. 1. filed.

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 309.

Know all Men by these Presents, That we W. J. Sebrell & J. B. Prince are held and firmly bound unto the Commonwealth of Virginia, in the sum of Eight hundred Dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our Homestead Exemptions as to this obligaiton, and any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds of this State. Sealed with our seals, and dated this 7" day of January one thousand eight hundred and ninety one.

The condition of the above Obligation is such, That if the above bound W. J. Sebrell shall faithfully perform the duties of his office or trust, as Special Commissioner under a decree of the Circuit Court of the County of Southampton, pronounced on the day of November Term, 1889, in the suit therein depending under the name and style of Everett's Guardian v. Brightwell & als:

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the presence of

W. J. Sebrell SEAL.

J. B. Prince SEAL.

SEAL.

In the Clerk's Office of the Circuit Court of the County of Southampton:

This day ..... suret ..... on the above bond, made oath before me ....., Clerk of the Circuit Court of the County of Southampton, that ..... estate after the payment of all ..... just debts, and those for which ..... bound as securit ..... for others, and expect to have to pay ..... worth the sum of ..... dollars; whereupon the said bond is admitted to record according to law.

Given under my hand this ..... day of ..... 18.....

Teste: ..... Clerk.

shall have entered into bond with approved security before the Clerk of this Court in the penalty of $800—, Conditioned for the faithful discharge of his duties under this decree. And said Commissioner will make report to Court.

Overseers Docket 104
vs.
Decree
Crichton et als

Nov. Term 1889
Filed in Office
C M Pace

Entered Aug 1889

Everettes Gdn vs.

vs. } Decree.

Crichton et als.

This day this cause came on to be further heard upon the papers formerly read and upon the report of Comr. McLemore, filed Oct. 15/89, to which report there is no exception, and was argued by counsel. On consideration whereof the Court doth approve and confirm the said report; and it appearing to the Court that the interest of the infants would be promoted by the sale in the proceedings mentioned, the Court doth adjudge, order and decree that the said sale be and the same is hereby confirmed and declared to be valid and binding between the parties. And in order to carry out this decree the Court doth appoint W. J. Sibell, special Commissioner to receive the purchase-money, to pay over the same to the lawful guardian of the said ward and take his receipt for same, and to execute to the purchaser a deed for said interest in said lands with special warranty. But the said Commissioner will not proceed to act under this decree till he

Everitt's Adm &c.,
vs. } Decree.
Crichton et als.

Nov. Term 1891

To be entered—
CWH

Entered

Prince & Lebrell, p.q.

Everello's Gdn &c.
v.
Crichton et. als.

Decree.

This day this cause came on to be further heard upon the papers formerly read, and upon the report of Comr. W. J. Sebell, showing collection & disbursement of the purchase-price for the interest in the land in the proceedings mentioned, supported by proper vouchers, and was argued by Counsel. On consideration whereof, the Court doth approve and confirm the said Report; and, it appearing that nothing further remains to be done in this cause, it is ordered that the same be removed from the docket.

Everette's Gdn

vs

Sum

Crichton & als:

1888. 1st Oct: Rules

Cir: Ct:

Executed Sept. 26th 1888
by delivering a copy of this
Sum to each of the
within named parties

R. D. Moon Deputy
for J. H. Williams
Shff

26

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON Margaretta A. E. Crichton, E. W. Crichton, R. H. Crichton, Sallie Crichton, Estella Crichton, B. W. Everett and Kate, his wife, and M. A. M. Everett, the last named an infant of tender years, by W. H. Parker g'd'n ad litem.

to appear at the Clerk's Office of our Circuit Court of Southampton County, 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 our said Court by Jos. S. Everett g'd'n of M. A. M. Everett.

And this they shall in no wise omit; and have then there this writ.

Witness, ~~J. B. Prince,~~ B. F. McLemore Clerk of our said Court, this 24 day of September 1888, in the 113 year of the Commonwealth.

B. F. McLemore C. C.

Everette, Edw &c

to } Recht.

Dubuque, Iowa

Received May 26th 1891 of W. J. Scherer Comr in suit Everette's Gdn. v. Crichlow Forty Three Hundred and Eighty Three & 83/100 Dollars in full of amt. due my ward M. A. M. Everette from sale of her 1/6 int. in the lands belonging to the Est. of Elizabeth Leith dec'd., said sale having been confirmed by the Circuit Court of Southampton in above styled suit.

J. S. Everett
Gdn, &c.

Everitt's Exr.
v.
Crichton &c.

Statement Costs & Receipts.

Statement of Costs

Everett's Gdn v Crichton & al:

20 - 80 - 28 - 18 - 100. 35 - 15 - 15 - 100 - 15. 1.44

40. 25. 25. 1.76

	Clerk	$ 8.36
	Shff	7.50
	Comr.	5.00
Witnesses:	W. J. Gillette	1.06
	G. A. Dunn	1.46
	J. E. Joyner	1.46
Paid, Prince & Sebrell, A.G.	Law Jr.	16.50
		$ 41.34

20.00
17.34
2.66

Received May 26th 1891 of W. J. Sebrell, Comr. in suit of Everett's Gdn. v. Crichton & others the following items of costs taxed above, to-wit: $8.36 for Clerk; $5.00 for Comr.; $1.06 for W. J. Gillette, witness, $1.46 for G. A. Dunn, witness; $1.46 for J. E. Joyner, witness —

B. F. McLemore C.C.

8.36
5.00
1.06
1.46
1.46
17.34

Received of W. J. Sebrell, Comr. &c. Seven & 50/100 amt. fees due me in above case of Everett's Gdn &c. v. Crichton & others —

J. W. Williams Shff.

Everitt's Adm. &c.,
v.
Crichton et als.

Report of Court
C. J. Sebrell.

Everett's Gdn.
v. } Report of Com'r. W. J. Sebrell.
Crichton et al.

In this cause the Commissioner reports that pursuant to decree herein entered at the Nov. term 1889, he has collected from E. W. Crichton the purchase-price of $400.00, together with interest thereon amounting to 25.17

making in all — $425.17

Out of this amt. your Commissioner has paid out $41.34 costs, and the balance of $383.83 he has paid over to the Guardian of the infant, M. A. M. Everett, as will appear from receipts herewith filed.

Your Com'r. has executed to the purchaser, E. W. Crichton, a deed with special warranty for said interest in said land.

Respectfully submitted,
W. J. Sebrell,
Com'r &c.