

1897-13

Southampton County Chancery.

Cobb, Mary Francis

vs Sebrell, Ann Elizabeth
et al

Will of Margaret A. Butt
to be "construed" and
complaints be directed
as to the division of parts of
the will.

Cobb, Sallie R.
(Executrixes)
of
Butts, Margaret Anna
(dec.)

{ Sebrell, J. Emmett, Jr.
" , Mirtle
in {
fact {
By
Sebrell, J. N., Jr
(G. A. L.)

Butt, Executrices,
vs { Bill & Exhibits
Subrell et al

JAMES L. MCLEMORE,
Attorney-at-Law,
COURTLAND, VIRGINIA.

Everett Waddy Co., Stationers and Printers, Richmond, Va.

To Hon. Rob. R. Prentiss, Judge Circuit Court
for Southampton County.
- In Chancery -

Humbly complaining your ora-
trices Mary Francis Cobb and Sallie R. Cobb.
Executrices of Margaret Anna Butts decd. and
the same Mary Francis Cobb and Sallie R.
Cobb in their own right, sheweth unto the
Court the following case. That on the
day of 1894 Margaret Anna Butts

departed this life, having first duly published
her last will and testament which was duly
proved and recorded at the August term 1894.

That by the third item of the said will
the Testatrix disposed of her property as follows.

"I desire that all of my money be equally
divided between my daughters Mary Francis Cobb,
Sallie R. Cobb, and Ann Elizabeth Sebrall as fol-
lows. One third to Mary Francis Cobb, one third
to Sallie R. Cobb, and one third to Ann Elizabeth
Sebrall for her use during her life and at
her death, whatever money or property both real
and personal, that may be in her possession
or under her control, acquired by the use, pur-
chase or investment of said money hereby grants
to her. I desire to be equally divided among
her Ann Elizabeth Sebrall's children. and
should Ann Elizabeth Sebrall's children die
without leaving any lawful issue of the
body. then at the death of the last surviving
one. I desire that whatever estate in money or
property both real & personal then in his or her
possession acquired by virtue or devise of the will

shall revert to my daughters Mary Francis & Sallie
R Cobb. But should Ann Elizabeth Sebrell's
Children die leaving any lawful issue of the
body then this estate of Ann Elizabeth Sebrell
and children may be disposed of as the law may
direct". By the ^{same} will of the said will the tes-
tatrix disposes of her house and lot in the town
of Cautland in language not altogether clear
to your complainants - all of which will appear
by reference to an office copy of the said will
filed herewith marked "H" and made a part of this
bill -

Your complainants would state that there
will be considerable funds in their hands as ex-
ecutrices of said testatrix after all of the debts
are paid and they are undecided what to do with
the same, whether to pay the $\frac{1}{3}$ devised to Mrs Ann
E. Sebrell ^(who has now living the children of Emmett & Mirtle.) or whether
the same shall be invested under the direction of
the Court, your complainants are also uncertain
as to the true intent meaning of the fourth clause
of the said will:

In tender consideration whereof and
for as much as your orators are without
remedy save in this Court, where all such mat-
ters are alone and properly cognizable to the
end, therefore that justice may be done they
pray that Ann Elizabeth Sebrell, J. Emmett Sebrell
Jr. and Mirtle Sebrell be made parties defendant
to this bill and required to answer the same, that
some discreet proper person may be assigned

as guardian ad litem to defend the interest of the
infants, that the said Will of the decedent Mar-
garet Anna Butte may be construed and your
Complainants directed as to their duty in the prem-
ises, and especially as to what disposition they
shall make of the funds in their hands other than
the two thirds which is bequeathed to them by the said
will, that such inquiries may be directed, account
ordered and such general and special relief granted
as the nature of the case may require. that fees
reasonable and proper may be allowed plaintiffs
counsel conducting this cause. and your Complain-
ants will ever pray to. may it please the Court.

J. L. McLemore Counsel
for plaintiffs-

Butts Exh¹ et al
R¹ } Stat: Rules.
Sebrell et al

1895. 1st Week. Rules.

✓

Mary Francis Cobb
Sallie A. Cobb, Executrix
of Margaret Anna Butts
decd, and the same Mary
Francis Cobb and Sallie
A. Cobb, in their own right.

Plffs

In Chancery.

Dr
Ann Elizabeth Sebrall
J. Emmett Sebrall Jr and
Mertle Sebrall the last
two infants by J. N. Sebrall
Jr, Edn. ad litem.

Defts

1895. Feb 23. Process to 1st Mich. Rules
" 1st Mich Rules. Process read Executed
Bill of Ex filed J. N. Sebrall Jr
Appt Edn ad litem decree
 nisi to Adult.

1895. 2nd Mich Rules. Bill taken for confessed
as to adult + cause set for
hearing

Butts Executive Co.

vs.

Memorandum

Decees

Sibrell et al.

1895 March 26

To be entered.

Robert R. Phillips.

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Butts' Executors et al.

vs.

Decree

Subrell et al.

This day this cause came on to be heard upon the bill and exhibits filed, bill taken for confessed as to the adult defendant, answer of infant defendant by guardian ad litem, regularly appointed as rules, with general replication thereto and was argued by Counsel. On consideration whereof the Court ~~is of opinion that Ann Elizabeth Subrell takes an absolute estate in the personalty devised to her by the 3rd clause of the will of her mother Margaret Anna Butts,~~ doth adjudge order and decree that the executors of said Margaret Anna Butts in the settlement of the estate aforesaid pay to Ann Elizabeth Subrell her ^{the personal} $\frac{1}{3}$ of said estate ~~bequeathed to her by the 3rd clause of the will of Margaret Anna Butts,~~ taking from her a receipt for the same, which receipt shall be a complete discharge and final acquittance so far as any future liability upon the executors aforesaid is concerned.

To the Judge of the Circuit Court of Southampton County, Virginia.

We, Ann Elizabeth Sebrell, J.N. Sebrell Jr., Guardian ad litem for the infant defendants, Emmett Sebrell Jr., and Mirtle Sebrell, M. Francis Cobb and Sallie R. Williams, formerly Cobb, being the parties plaintiffs and defendants in the Chancery cause of Butts' Executrices Versus. Sebrell et als. hereby consent that this cause be submitted to the Honorable Robert R. Prentiss, Judge of the Circuit Court for Southampton County, for such decision and decree therein to be entered in vacation, as might be made in term.

Ann Elizabeth Sebrell
Sallie R. Williams
Mary Frances Cobb
J.N. Sebrell Jr.
Guardian ad litem.

Butts, Excentric
as ¹⁰⁰⁰ Answer of.
3 4th addition
Subrell et al.

The joint and several answer of J.
Emmitt Subrell & Mistle Subrell infants
of tender years by Jno. C. Subrell Jr. their
guardian ad litem, to a certain bill of
complaint exhibited against them & others
in the circuit Court of Southampton County
by Mary Francis Cobb & Sallie R Cobb Exrs
of old Anna Butts de'd & others.

These respondents reserving to themselves
the benefit of all just exceptions &c. through
their said guardian ad litem, answering, say:
That being infants of tender years they
are incapable of understanding or of care-
ing for their rights and interests and they
therefore commend their right to the protec-
tion of this Court. And having fully answered
they pray hence to be dismissed with their
reasonable costs &c.

J. C. Subrell Jr.
Gdn ad litem for infant depts -

In the name of God Amen. I Margaret
Anna Butts of the County of Southampton
and State of Virginia being of sound
mind do make this my last will
and Testamentary writing.

Item first I desire that all of my just debts and
funeral expenses be paid.

Item second I give and bequeath all of my household
and kitchen furniture to my daughters
Mary Francis and Sallie R. Cobb and also
my horse and buggy & harness should I have
a horse and buggy & harness at my death.

Item third I desire that all of my money be equally
divided between my daughters Mary
Francis Cobb, Sallie R. Cobb and Ann
Elizabeth Sobrell as follows: one third
to Mary Francis Cobb. one third to Sallie
R. Cobb and one third to Ann Elizabeth
Sobrell for her use during her life
and at her death, whatever money or
property both real and personal, that
may be in her possession or under her
control, acquired by the use, purchase
or investment of said money hereby
granted to her. I desire to be equally divid-
ed among her, Ann Elizabeth Sobrell's
children and should Ann Elizabeth
Sobrell's children die without leaving

any lawful issue of the body. Then at
the death of the last surviving one,
I desire that whatever estate, in money
or property both real and personal then
in his or her possession acquired by virtue
or devise of this Will, shall revert to my
daughters Mary Francis & Sallie Robb. But
should Ann Elizabeth Sebell's children die
leaving any lawful issue of the body then
this estate of Ann Elizabeth Sebell and
children may be disposed of as the
law may direct.

Item Fourth I give and bequeath to my daughters Mary
Francis and Sallie Robb and Ann
Elizabeth Sebell my lot or place in the
town of Courtland Va on which I now
reside with all of the appurtenances
there to belonging to keep and to hold by
them as a home so long as They may
desire, and should either of them remove from
this to some other place, the party or parties
so removing shall not make any charge or
demand for rent or anything else from the
party or parties remaining at said place in
the town of Courtland Va But if they should
so desire, they may sell the said house and lot
with all the appurtenances there to belong

ing and divide the money from the sale of the same equally among them as follows. one third to Mary Francis Cobb, one third to Lallie R. Cobb and one third to Ann Elizabeth Sobell and her children in like manner, and upon the same conditions and with the same proviso as in Item Third of this writing as to Ann Elizabeth Sobell and her children.

Item fifth I give and bequeath my other property that I may have at my death not mentioned above to my daughters Mary Francis and Lallie R. Cobb.

Item Sixth I make no charges against my daughters Mary Francis and Lallie R. Cobb for board or any thing else.

Item Seventh I appoint my daughters Mary Francis and Lallie R. Cobb as my Executors and desire that they shall not be required to give security. Given under my hand and seal this the 27 day of September 1890.

Witness:

Margaret Anna Butts. (Seal)

J. E. Gillette.

Geo H. Wager.

Southampton County Court: August Term 1894.
A Writing purporting to be the last Will and Testament of Margaret Anna Butts, dec'd. was produced in Court and J. E. Gillette

one of the subscribing witnesses thereto being dead, Geo. H. Maget the other subscribing witness thereto appeared in Court and being sworn testified that the said writing was signed by himself and the said J. E. Gillette at the same time and place, in the presence of each other and in the presence and at the request of the testatrix, who there and there acknowledged the said writing as and for her last will and testament, that said testatrix was of perfect sense and memory: And the hand writing of the said J. E. Gillette being proved by the oath of H. H. White, the said writing is ordered to be recorded as the last will and testament of the said Margaret Anna Butts, dec'd.

Test: D. H. McLenore C. C.

Will of

Mrs M. A. Butts dec'd.

Exhibit

"A."

Butts Exrs & c

or } Sum
Sebrell et al

1895. 1st Mo. Rules
vir. Ct.

Executed March 4th
1895 by delivering a
copy of this decree to
each of the parties de-
fendants.

J. Williams
Sgt.

W. L. Lenoir Jr.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

Ann Elizabeth Sebrell

J. Emmett Sebrell Jr and Mirtle Sebrell the last two infants by J. A. Sebrell Jr Edw 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 *March 1895* ~~next~~, to answer a Bill in Chancery

exhibited against *them* in our said Court by *Mary Francis Cobb and*

Sallie C. Cobb executrix of Margaret Anna Butts dead and the same Mary Francis Cobb + Sallie C. Cobb in their own right

And this *they* shall in no wise omit under penalty of law. And have then there this writ,

WITNESS, T. M. HOWARD, Clerk of our said Court, at the Courthouse, this *23rd* day of *February*, 189*5*, in the 11*9*th year of the Commonwealth.

TESTE:

T. M. Howard, C. C.

Butts, Excavations

vs. } Statement of costs,
Se Brill et als.

Bills, Excentrics V. Seabell et al.

Sum, 25, 2 copies 26, receipt 18, atty. 10, Docket 18- .97

Rule 50, entering return 35, filing bill 15- 1.10

Do. Exhibits 15, Copy Ex. 75, rep. 15, Rule 50 - 1.50

fil. written consent of parties for ec. 15, decree 72- 87

another decree 36, Law Costs 40, fil away papers 25-1.01,

to book \$5.45

Shff 1.00

Law ec. 16.50

\$32.95

J. M. N \$4.29

L. A. G 1.16
\$5.45

Butts' Executrices,

Versus. Decree.

Sebell et als.

Enter this, *April 30*, 1896.

Robert I. Butts

Entered

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116 01411 12 1896

Virginia:

In Vacation, in the Circuit Court of Southampton County.

April 30, 1896.

Butts' Executrices,

Versus.

Sebrell et als.

This day this cause came on to be heard upon the papers formerly read, and upon the written consent of parties, plaintiffs and defendants, that this cause be submitted to the Judge of the said Circuit Court in vacation, for such decision and decree therein as might be made in term, and was argued by Counsel. On consideration whereof, the Court is of opinion, and doth decide, that Ann Elizabeth Sebrell takes *an undivided one third of* a fee simple estate in the house and lot situated in the town of Courtland, and devised to her and others under and by virtue of the Fourth Item of the will of the decedent, Margaret Anna Butts, and that all limitations attempted to be placed upon the said interest of Ann Elizabeth Sebrell are therefore void. *ordered to be stricken* And this cause is ~~dismissed~~ from the docket.

To the Clerk of the Circuit Court of Southampton County.

Robert I. Hunt

I hereby certify, that by written consent of all parties, given in vacation, the Chancery cause of Butts' Executrices Vs. Sebrell et als. has been submitted to me for such decision and decree therein to be entered in vacation, as might be made in term, which fact you are ~~authorized~~ *directed* to enter in your chancery order book.

Given under my hand this *30th* day of *April* 1896.

To, L. A. Gay, Clerk of the Circuit Court for Southampton County.

Robert I. Hunt