

1901-13

Southampton County Chancery - Gardner, George T. _(vendee) vs Gardner, W. C. et al

partition of real estate,
if can't be done, sell
and proceeds distributed
to parties entitled -

Williams, Anna T.

Gardner, Jno. A.

Gen. T. Gardner been an
of

by Bill

W. L. Gardner &

1899. 2nd Mich. Rules filed

L. A. Gay. b. b.

James M. Lamm

To the Honorable R. R. Prentiss, Judge of the Circuit
Court of Southampton County. In Chancery.
Complaining Sheweth unto your Honor your
Complainant Geo. J. Gardner, husband of
Anna T. Williams, who was formerly Gardner
as follows. That Amington Gardner their father
and his wife are both dead, and they left
the following children, ^{all adults,} your complainant
his sister Anna T. Williams, and two brothers
W. C. Gardner & J. A. Gardner. That said
Amington Gardner left a tract of land in
Southampton County - and the shares of Geo. J. and
J. A. Gardner have been allotted to them by
deeds from the heirs at law - but there remains
about 1400 acres of land belonging to Anna T.
Williams & W. C. Gardner. Not yet divided.
That Anna T. Williams has sold her
undivided one half interest in said 1400
acres to her brother Geo. J. Gardner. That the
said W. C. Gardner will not consent to a
division of the same. But your complainant
believes the same can be divided, and there
remains no remedy for your complainant
but to seek the intervention of this Court.
In consideration whereof and in as much as
your complainant is without remedy except
in a Court of Equity where such matters

are properly cognizable. To the end therefore
that justice may be done, your Complainant
prays that W. C. Gardner and Mrs. A. Gardner
may be made parties defendant to this
bill and compelled to answer the
same. but answers under oath are expressly
waived. That an order may be entered
appointing Commissioners to make partition
of the land yet undivided between your
Complainant & W. C. Gardner, if the same
can be done, but if it cannot - then that
same may be sold and proceeds of sale
distributed among the parties entitled.
That your Honor will grant all such other,
further, special and general relief as
the nature of this case may require or
as to Equity may seem meet. And as in duty
bound, your Complainant will ever pray &c.
May it please the Court &c. -

Primer & McLennan py

Gardner Vanden

vs. } Statement of Reels

W. L. Gardner vs.

G. O. P. Gardner vs. Anna P. Williams
Who was formerly Gardner } Plaintiff
vs.

John A. Gardner & William L. Gardner, Defendants

1899. 2nd. March. Process issued to 2nd. March Rules.

1899 2nd. March Rules. Process returned executed.

Bill and Exhibits filed.

Declaratory vs Defendants

1899. 3rd. March Rules. Bill taken for confessing
and Cause set for hearing

Gardner } Eppa

vs.

Gardner

1899 Sept 20

Executed

J. W. Kilciany
Chff

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

James G. Bell
Walter Vick *James Butler*
G. T. Bryant

J. B. Prince Jr. Clerk in Chancery
to appear before the Judge of our County Court of Southampton County, at the Courthouse thereof,
on the *20* day of *September*, 1899, to testify and the truth to speak on
behalf of *Gardner*

in a certain matter of controversy in our said Court depending and undetermined between-----
Gardner, plaintiff, and
Gardner, defendant.

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

Witness, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *11*
day of *Sept*, 1899, in the 123d year of the Commonwealth.

TESTE:

J. B. Prince Jr. c.c.
Clerk in Chancery

Gardner, Vindex

v. } notice

Gardner et al

We acknowledge legal
service of this notice
Purvis & W. Lunn
attorneys for plaintiff.

Executed Sept. 11th 1888
by delivering a copy of this
notice to Wilkinson G. Gardner
and a copy to Mrs. A. Gardner

J. W. Williams
Shyff.

(2)

OFFICE OF JOS. B. PRINCE, JR.,

Commissioner in Chancery for the Circuit Court of Southampton County, Virginia.

Courtland, Va.,

189

To

Geo. T. Gardner Trustee of Anna T. Williams
Jesse R. Gardner and Wilkinson C. Gardner

You are hereby notified that I have fixed upon the 20th day of September 1899
~~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 lands of Arlington Gardner, now undivided,
and belonging to Geo. T. Gardner trustee of Anna T. Williams,
formerly Gardner, and to W.C. Gardner and
containing 140 acres, more or less, are susceptible of
partition in any of the modes prescribed by law

2nd - What is the best simple value of said lands

3rd - whether there are any liens thereon for delinquent
taxes, or other wise -

4th Any other matters specially stated deemed proper
by the Commissioner, or which may be required to be
so stated by any interested party.

required to be taken by a decree of Southampton Circuit Court, rendered at the April
term, 1899, 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.

Jos. B. Prince, Jr., Commissioner.

To the Sheriff of Southampton County to execute.

Gardner Vander

vs } Deane

Gardner et als

Apr. 4th. 1879

Enter this

Robert R. Prentiss

A copy of the
Deed: of R. H. H. H.

Virginia, In the Circuit Court of Southampton
County, April Term 1899.

Gardner Vandee

vs.

Gardner & C.

This day this cause came on to
be heard on the Complainant's bill, taken
for confessed as to the defendants on whom
process has been duly served and they
still failing to ~~appear~~ appear and plead
answer or demur and was argued by
Counsel. On consideration whereof the
Court doth adjudge order and decree
that a Commissioner of this Court
inquire and report to Court whether the
lands of Arrington Gardner, now undivided,
and belonging to Geo. J. Gardner Vandee
of Anna J. Williams, formerly Gardner,
and to W. L. Gardner, and containing 140
acres, more or less are susceptible of
partition in any of the modes prescribed
by law, what is the fee simple value
of said lands, and whether there are
any liens thereon for delinquent taxes
or otherwise, which aet, the said Com-
missioner will report to Court with any
other matters specially stated deemed partici-
pant by him or which may be required
to be so stated by any interested party over

Gardner, v. m. d. e.

v. { Reports

Gardner et al. -

1899. 21st. Sept. Field

L. A. Gay to be

Nich, 2.3. August and Jas. Butler were duly taken over to
and underlined before me at the time and place
and been the purpose in the caption lists mentioned.
I have under my hand this 20th day of September - 1899
J. A. Gay Jr.
Deputy in Charge

Commissioner's Office

Court land, Va

Sept. 20th - 1899.

To the Circuit Court of Southampton County:

Pursuant to a decree of the Circuit Court of Southampton Co., entered at the April Term 1899 in the cause of Gardner versus v. Gardner et als, the undersigned, one of the Commissioners of said Court, to whom the aforesaid decree has been referred, reports to the Court: that on the 9th day of ~~August~~ September 1899, he issued notice against the parties hereto, requiring them to appear before him, at his office in Court land on the 20th day of September 1899, at which time and place he should proceed to take and report the account called for by the aforesaid decree - The Commissioner also issued "Sps" against Jas. G. Keels, Walter Vick, James Butler and G. L. Bryant, requiring them to appear before him at the time and place aforesaid, as witnesses; and they having been sworn, except Jas. G. Keels, who was not present, and examined he submits the following:

That the one hundred and forty acres of land over which this suit is now depending is susceptible of partition and may be divided in kind.

That the fee simple value of the land is about three hundred dollars (\$300.) and,

That there are no delinquent ^{taxes} charged thereon, nor are there any other liens on said lands -

The witnesses, above referred to ~~are~~ live near the farm, are farmers - have been on the land recently in order to see if the land might be divided in kind, are men of good judgment - and know the land well.

W. C. Gardner, an interested party, requires that the statement
hereto annexed and marked "A" may be shown to the
Court-

The notice of the time and place of taking and
reporting the aforesaid account, having been duly
executed and returned by the Sheriff, is here with
filed

Respectfully Submitted

Joseph B. Prince, Jr.
Court in Chancery.

Witness fees:
Walter Vick .50
James Butler .50
G. J. Bryant .50

Commis fee \$10.00

"a"

W.C. Gardner prays that the following statement should be made to the Court-

That since 1882 he has been paying taxes on the piece of land now in controversy and he prays that should the Court see fit to divide the land he may be allowed the share which Anna S. Williams should have paid. The taxes in all, he says, have amounted to \$48.23. ~~as~~ Her part would have been one fourth. He begs, therefore, that he may be allowed \$14.05.

The fact is that he voluntarily paid the taxes on the land while subject to the widow's dower and before any division had been made among the heirs - That the widow's dower was assigned her in March - 1897.

John S. Prince, Jr.
Counsel in Chancery.

The depositions of Walter Vick and others taken before me Jos. B. Prince, Jr., a Comr. in Chancery for the Circuit Court of Southampton Co., at the office of Jos. B. Prince, Jr., in Court land No on the 20th day of September 1899 between the hours of 10 and 4^{PM} to be read as evidence in a certain suit in Equity depending in the Circuit Court of Southampton Co., of No. One notice of the time of taking this deposition having been given as appears from notice hereto affixed -

The witness Walter Vick being duly sworn deposes as follows -

- Q2- State your name, age, residence - occupation and do you know the parties to this suit -
Ans - Walter Vick - 49 - Southampton Co., Farmer
Yes I know them well
- Q2- Are you well acquainted with this land over which a suit is now depending?
Ans - Yes - I have known it for some time
- Q2- What in your opinion is the value of the 140 acres in Court overry?
Ans - The timber is sold off of it I suppose between \$200 & \$400. F
- Q2- Do you think that 140 acres of land is susceptible of division or Partition
Ans - Yes: Sir
- Q2- Do you think it can be divided in kind -
Yes - I do -
- Q2- Are you interested in any manner in this suit - or are you related to the parties:
No Sir - ~~for~~ -

And further this deponent said not: Walter Vick

Witness G. L. Bryant being duly sworn deposes as follows-

Q- State your ~~name~~ age - residence - occupation and do you know the parties to this suit-

Ans- 43 - Southampton Co. - Farmer. Yes -

Q- Are you well acquainted with the land over which this suit is brought-

Ans- Yes - I have been on the place several times in my life

Q- What in your opinion is the value of the 140 acres in Centre county-

Ans- I think \$300 would be a fair valuation

Q- Do you think the 140 acres of land can be divided in 2 equal parts, so that each party will have about the same amount of open land and wood land-

Ans- Yes sir - by making an elbow in the land - go across the open land then across the wood land in an elbow and split it - about even -

Q- How about the houses on the place can you make an equal division of them -

Ans- One is a dwelling - but the kitchen is about as good as the dwelling - We could not divide them equally - but we could make it all even in the land -

Q- Do you think it would be necessary to have a Surveyor to divide the land

Ans- I think it could be divided about equal without a surveyor - unless one wanted exactly $\frac{1}{2}$ in acres -

of course - same is more valuable than the other -

Q- Are you interested in any manner in this suit or are you related to the parties here at all -

Ans
to

And further this deponent said not -
Y Y B. not

Witness James Butler being duly sworn deposes as follows:

Q- State your age - residence - occupation and do you know the parties to this -

Ans 82 - Southampton - Farmer - Yes - I know all the people

Q- Are you well acquainted with this 140 acres of land over which suit is brought -

Ans B-yes -

Q- Have you ever been on the land -
last lastely - I aint in many a year -

Q- ~~What but you knowed it - did you~~
I mean what you remember of the land do you think it can be divided so that each of two parties could take an equal part

Ans- I do - I think so

And further this deponent said not -

Witness (Butler) Jas. Butler
Virginia: Southampton Co. to wit -

I, Jas. B. Prince, Jr. - a Commissioner in Chancery for the Circuit Ct of Southampton Co. in the said State, do hereby certify that the foregoing depositions of Walter

Nich, D. J. Bryant and Jas. Butler were duly taken sworn to
and subscribed before me at the times and places
and for the purpose in the caption hereto mentioned
Given under my hand this 20th day of September - 1899

Just D. Prince Jr.
Clerk in Chancery

Gardner, under

n. Report -

Gardner et al. -

1899. 21st Sept. filed

L. A. Hay Jr.

We the Commissioners appointed at the April term of the circuit Court of Southampton County for the purpose of dividing one hundred and forty acres of land between G. T. Gardner and W. L. Williams met on the premises according to direction and in the presence of G. T. Gardner and W. L. Williams divided the said one hundred and forty acres into two equal parts. Plot no 1 which we adjudge to be the portion of G. T. Gardner contains seventy acres more or less. Bounded on the north by a line established by us commencing at a cedar post about fifty yards from the Southeast corner of W. L. Williams farm goes East about four hundred yards to a small pine thence Northeast about eight hundred yards cornering on the line of Merritt Johnson beside the Ricks path on the East by the land of Merritt Johnson on the South by the land of J. M. McElmurry and others and on the West by the land of G. T. Gardner and W. L. Williams.

Plot no 2 which we adjudge to

be the portion of W. C. Gardner contains
 seventy acres more or less and bound-
 ed as follows on the south by the
 plot no. 1 on the west and north
 by the lands of W. L. Williams and
 James Edwards on the east by the
 lands of Merritt Johnson.

August the 20th 1900

Jethro Butler
 Walter Vile

53 By lot

Commissioners

Report of Commissioners
 dividing lands of W. C.
 & J. T. Gardner.

1900 Aug 20 - Plot
 " Sept 20 - Confid
 "

1900. 18" Dec. Field

L. A. May 6. 6.

Gardner Tender &c.

vs. } Exa. In Chy.

Gardner et al.

1899. 2nd. March Rules

• • • to be let.

Executed March 13th.
1899 by delivering a
copy of this "Deed" to
each of the within named
defendants.

J. W. Williams
Shuff.

Prince & M. L. p. 9.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

We command you to summon John A. Gardner and Wilkinson L. -
Gardner

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 2d Monday in March 1899 next, to answer a bill in Chancery exhibited against them in our said Court by Geo. A. Gardner Vendor of
Anna A. Williams, who was formerly Gardner

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

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 2nd day of
March, 1899, in the 123 year of the Commonwealth.

Teste: L. A. Gay C. C.

A Copy—Teste: _____ C. C.

Gardner, Vindon

vs } Stat = ~~of~~ ~~card~~

Gardner et al

...

0.0000 / 0.0000
0.0000 0.0000
0.0000 0.0000

20. } Statement of costs

Date	Description	Amount	Total
1899	Yardman et al.		
March	2 Sums. 25, 2 exp. 26. receipt 18, atty. 10, Docket 18=	97	
	Rules 1.00, enter. return 35, fil. bill 15, 1 Decm 36= 18		
	and one copy 36 =		
	Fil. Commis in chancery's report 25. Inc costs 40=		
1900, Apr	1 Decm 36, 4 copies 1.44, receipt 18=	198	
	Fil. Commis report to divide land 25. D. papers 25=	50	
	2 continuances 50. Future costs about 2.00=	250	
1901, Apr 1	paid \$6.66 in part L. A. Hay		
	to L. A. Hay	\$8.82	
	Shff	5.50	
	Law re. 16.50		
	Paid \$15. J. B. P.		
	to L. A. Hay	\$28.82	
	Free of Commr. J. B. Prince Jr.	10.00	
	Witness Walter Viets Paid 50	WV	
	" James Butler Paid 50	WV	
	" H. J. Bryant 50		150
	Commr. Estero Butler Paid 1.00	WV	
	" Walter Viets Paid 1.00	WV	
	" H. J. Bryant 1.00		3.00
	to L. A. Hay	\$43.32	
	Tests: L. A. Hay 13.66		
4/1/1901	Paid by R. H. Whisnand 1/2 of above cost	21.66	
	to L. A. Hay	\$64.66	
	to L. A. Hay for issuing ex.	68	
	to L. A. Hay	\$72.04	
	Add this to \$8.82	to L. A. Hay for issuing, another 20	68
	to L. A. Hay 10.18		\$20.02
	Shff 5.50		
	Law re. 16.50		
	Commr. 10.00		
	Shff 1.50		
	Commr. 3.00		
	to L. A. Hay	44.68	
	to L. A. Hay	21.66	
	to L. A. Hay	\$20.02	

Gordon Wendell
or 3 pieces
Gordon on the

Apr 4. 1899

Enter this

Robert H. Hunt

Aug 26. /99.

What is the per simple value of said lands,
and whether there are any liens thereon
for delinquent taxes or otherwise.

Gardner v. Gardner
or 3 Dece

Gardner v.

This day this cause came on to be
heard on the Complainant's bill ^{or motion process has been duly served and they still failing to appear and plead in answer} ~~complaint~~ ^{and}
was argued by counsel. On consideration
whereof the Court doth adjudge, order and
decree that a Commissioner of this Court
inquire and report to Court whether the
lands of Armonster Gardner, now undivided,
and belonging to Geo. J. Gardner husband of
Anna J. Mellicam, former Gardner, and to W. B.
Gardner, and containing 140 acres, more or
less are susceptible of partition in any of
the modes prescribed by law. Which act.
the said Commissioner will report to Court with
any other matters specially stated deemed
pertinent by him or which may be required
to be so stated by any interested party.

Gardner, Vendee,

V. DECREE.

Gardner et als.

Apr. 3, 1900.

Enter this

Entered Page 299

4 copies

Gardner, Vendee,

afav.

DECREE.

Gardner et als.

This day this cause came on to be again heard on the papers formerly read and the report of commissioner J.B. Prince, Jr., filed the 21 of Sept. 1899, to which report there is no exception and was argued by counsel, and it appearing from said report that the one hundred and forty acres of land belonging to the estate of Arington Gardner, decd., and which belongs now to George T. Gardner as vendee of Anna T. Williams, formerly Gardner, and to W.C. Gardner, can be divided in kind among the parties, the court doth adjudge, order and decree, that Walter Vick, *John* Butler and G.T. Bryant be and they are hereby appointed commissioners for the purpose that *after being first duly sworn* they go upon the said one hundred and forty acres of land, after notifying W.C. Gardner and George T. Gardner of the time, and proceed to divide the said land between the said parties equally, and if necessary in making said partition they will call in the services of a competent surveyor to assist them in making ~~said partition~~. And the said commissioners will make report to court.

Gardner, Vindex

vs } copy of Deed

Gardner et al.

1900. Oct Term

6th 6th

Executed by delivering a
copy of this Deed as
evid of the within named
Contract

Wm. Williams
Aug 1900

(3)

Primer & M. L. L. L.
P. 7.

They will call in the presence of a competent
surveyor to assist them.
And the said Commissioners will make
report to Court

Recd.

Filed: 2. 19. 1900

Virginia, In the Circuit Court of Southampton
County. April Term 1900.

Gardner, Vendor,

vs. } Decees.

Gardner et al.

This day this cause came on
to be again heard on the papers formerly
read and the report of Commissioner J.B. Paine,
Jr., filed the 21st of Sept 1899. To which
report there is no exception and was argued
by Counsel, and it appearing from said
report that the one hundred and forty acres
of land belonging to the estate of Stratton
Gardner, decd., and which belongs now
to George T. Gardner as vendor of Anna T.-
Williams, formerly Gardner, and to H.B.-
Gardner, can be divided in kind among the
parties, the Court doth adjudge, order and
decree, that Walter Vick, Fetho Butler and
H. T. Bryant, be and they are hereby appointed
Commissioners for the purpose that after being
first duly sworn, they go upon the said
one hundred and forty acres of land, after
notifying H.B. Gardner and Geo. T. Gardner
of the time, and proceed to divide the said
land between the said parties equally,
and if necessary in making said partition

they will call in the services of a competent
Surveyor, to assist them.

And the said Commissioners will make
report to Court.

A copy.

Teste: L. A. Gay l. g.

Hardman, Vindex

12 } Copy of Deed

Hardman et al.

1900. Oct. 1st

l. g. l. g.

Executed by delivering a
copy of this Deed
and of the within name
Court

Wm. Williams
Aug 1900
Sgt.

(3)

Primer & M. L. L. L.
P. T.

Gardner, Vendee & Co.,

v. Decree.

Gardner.

Apl. 9th, 1902,

Enter this

Robert R. Huntis

Entered on page 424

Gardner, Vendee &c.,

v. Decree.

Gardner.

On motion this cause is reinstated upon the docket. And it appearing to the court that a mistake was made in the last decree as to who should pay the costs of this suit, it being stated in the last decree that the costs should be equally born by Anna T. Williams and George T. Gardner, whereas it should have been born by George T. Gardner and W.C. Gardner, the court dothn adjudge, order and decree that the decree entered at the April term, 1901, be amended so as to read as follows:-

The costs of this suit shall be born equally by George T. Gardner and W.C. Gardner and that the same may be made a charge upon the land that was divided in this suit and that execution may issue therefor, and ~~as the~~ the object of this suit having been accomplished it is ordered to be stricken from the docket, with leave for any interested party to re-insate within twelve months upon motion, from the date of this decree.

Gardner. Venice T.

or 3 dozen

Gardner

Apr 4. 1901.

Enter this
~~Robert H. H. H.~~

1901

4

363

been
usually found like the birds in
the highland grasses, and
often in the highland grasses, and
often in the highland grasses, and
often in the highland grasses, and

Gardner v. Gardner
vi : 3 Decree
Gardner v.

This day this cause came on to be again heard on the papers formerly read, and the report of Commissioners dividing the land in the proceedings mentioned between Geo. T. Gardner and W. B. Gardner, filed Dec 18. 1888. to which there are no exceptions, and was agreed by Council, on consideration whereof, the Court doth confirm the said report, and doth decree that the same be held as final binding. The Court doth further decree that the costs of the suit be equally borne by Anna T. Williams formerly Gardner and Geo. T. Gardner. and that the same may be made a charge upon their land. And that execution may issue therefor, and the object of this suit having been accomplished it is ordered to be stricken from the docket.