1909-32 Southampton County Chancery - Everett, J.C. etal vs Everette, Susanna et als

petitions court for permission to sell land and re-invest in another tract.

Everette, Susanna

Everette, Wm. Lawrence, minor by McLemore, J.L.-(G.A.L)

Everett. Receiver
vs 3 Bill ft.
Everett &c.

2 Cert Rules

Prince & Schuyler pq.

To the Honorable Chs. Dewey Judge of the Circuit Court of Southampton Co. In Chancery.
Humbly complaining sheweth unto your Hon. J. C. Jewett. Resident of Surrana Jewett as follows. That the said Surrana Jewett is his wife and was before her marriage Surrana Hoy. That she is now under 21 years of age but over the age of 14. That she is seized in fee simple of one half of all the land of which her father died seized except her mother's dower. and has very little personalty. That she has one child, viz Wm Lawrence Jewett, also a minor not 14 years of age who would be her only heir at law and to whom her land would descend should she die under 21. Your Complainant says that he has bought a farm some 8 or 10 miles from the land his wife owns, and much more valuable than her land, and he wishes the Court to have his wife's land sold and the money arising from the sale of the same invested for his wife's benefit in the farm he has bought. and for the following reasons, he thinks it to be to her interest

to have this done.
Because the land of his wife have no buildings, and he and his wife cannot make a support from them.
Because he lives too far from this land to make it worth much to them by renting it out, and because the farm he has bought is a more desirable and valuable one than his wife's. Complainant further states that the interests of no one will be prejudiced by the change of investment, but on the contrary it will enable him to secure for his wife a good and comfortable home.
In consideration of which and forasmuch as your Complainant is without remedy in the premises & safe in a Court of Equity where such matters are properly cognizable - to the end that justice may be done, he prays that the said Susanna Everett and Wm Lawrence Smith may be made parties defendant to this suit and compelled to answer the allegations thereof. That some fit and proper person may be assigned guardian ad litem to the said Susanna Everett & Wm Lawrence Everett, to defend their interests in this suit.
That the said Susanna Everett may answer this bill upon oath or when

as by her Guardian ad litem. That due proper accounts ~~may~~ and inquiries may be directed, and if it shall appear judicious that the lands of Susanna Everett may be sold and the proceeds properly invested for her benefit in the paying for the same brought by your Complainant: and that your Honor will grant such other further general and special relief as to Equity may seem meet or the nature of this case may require - and as in duty bound your Complainant will ever pray &c. All of which please the Court &c.

J. C. Everett

Pro Con Schedule &c

Sworn to before me. Nov. 1/90. B. F. McLemore C.C.

The answer of Wm Lawrence Everett, an infant under 14 years of age by J. H. McLemore, his Guardian ad litem to a bill of complaint & bill filed in the Circuit Court of Southampton against him & Susanna Everett by J. C. Everett Complainant &c.

This respondent, saving and reserving &c for answer to said bill says. That he is a minor of tender years - and knows nothing of his rights - He therefore submits his interests to the protection of the Court, and having answered prays hence to be dismissed &c All of which please the Court &c

James L. McLemore
Guardian ad litem.

164.

Everetto, Recieve
v" 333 Stat: Rules.
Everetto ff.

1 Oct.

J. C. Everetto, Reciver of
Susanna Everetto. Pltff

vs

Susanna Everetto and
Wm Lawrence Everetto,
both minors. by J. L.
McLemore, Gdn ad litem. Deft.

In Chancery

1890. Sept. 30. Proces ifs? to 1st Oct. Rules

" 1st Oct. Rules. Proces rel? Executed.
Bill filed. J. L. McLemore
apptd Gdn ad litem.
answer of Gdn ad litem
filed. answer of Su=
sanna Everetto filed.
Genl repl: duces
tecum.

" 2 Oct: Rules: Cause set for hearing.

Everett Receiver

vs

Everett Ux

Answer of

Susanna Everett

The answer of Susanna Everett, a minor over 14 years of age, to a bill of complaint exhibited against herself & another in the Circuit Court of Southampton by J. B. Everett. Receiver &c.—

This respondent for answer to said bill says — that she thinks she understands something about her interests and if the Court will decree the sale of the land, and invest the proceeds in the purchase of the land that her husband has bought so that she will have the same interest there, she thinks it will be to her desired interest. — And having answered the prayer hereof to be dismissed &c.—

× Susan A. Everett.

Sworn to before me this 1 day of Nov— 1890.

B. F. McLemore J.C.

Everett Rec.
Answer of
v. Gdn ad litem
Everett

The answer of Susanna N. Everett a minor over 14 years of age by Jas L. McLemore her Guardian ad litem to a bill of complaint exhibited against herself and others by J. B. Everett Receiver in the Circuit Court of Southampton County.

This respondent for answer to said bill says, that he knows something of the facts in this case, and that so far as he knows they have been correctly stated in the bill of complaint filed by the Receiver J. B. Everett, therefore he is of opinion that the prayers of the bill should be granted, And having fully answered, prays hence to be dismissed &c.

Jas. L. McLemore
Gdn. ad litem.

Sworn to before me this 1st day of Nov. 1890

L.B.

Evansville Receiver

vs Petition of W. J. Gray

Evansville &c

To the Honorable L. H. Hill judge of the Circuit Court for Southampton County Va

your petitioner W. J. Gray shows unto your honor that he is seized in fee simple of one half of all the land whereof his father Gray died seized possessed except his mother dower therein. & that he is also entitled to two thirds of the reversion in said dower lands. that his sister Susanna Everette wife of J. L. Everette is entitled to the other half of said lands and the other third of the reversion in the said dower lands. That said land is situated near Courtland Va. and consists of about acres more or less. That there is now pending in this court a chancery suit of the style of Everette Receiver vs Everette for the purpose of selling of the said Susanna Everett's interest in the said land. that no division has ever been made of the said land between her and your said petitioner. that he is not a party to the said suit. Now your petitioner prays that he may be made a party defendant

to the said suit of Everette Receiver vs Everette &c that the court would appoint commissioners to divide the said land, exclusive of the dower interest between said Susanna Everette and your petitioner and allot by metes bounds to each one half thereof having regard to quality and quantity in making said division ~~as your petitioner~~. and your petitioner having given notice to all interested parties that he will ask the court to allow his attorneys in this case Messrs Shands Son and a reasonable attorneys fee in this case. and your petitioner will ever pray

May it do please the court &c

W. J. Gray petitioner

Pro Shands Son his attys

Oct 28. 1891

Evarette Reeves

vs

Report of Comrs

finding position

Evarette et

1891. Dec 16. Filed.

B. F. M. Cl.

To the Honorable C. W. Hill Judge of the Circuit Court for Southampton Co. Va

your undersigned commissioners beg leave to report that acting in pursuance of a decree entered at the Nov Term 1891 of the Circuit Court for Southampton Co. Va in the Chancery Cause of Everette Receiver vs Everette &c they proceeded on Dec 3, 1891 after having given due notice thereof to Susanna Everette and W. J. Gray, as required in the said decree, to make partition between them of the tract of land whereof Wm. J. Gray died seized and possessed (exclusive of the widows dower therein) and allotted to Wm J. Gray the West side of said farm bounded as follows. Starting from a chopped pine tree on the West bank of the Holloway River. Thence to a mulberry post in the centre of the low grounds field. Thence to a chopped hickory tree at the low grounds field gate thence to a cedar tree in rear of front wood field, thence to a Sassafras post on the boarland and apple tree hill's Church road

thence across said road so as to
lake in across there the tract of
thirty four acres a little more
or less bought by his father from
the late Wm. B. Lamb. the whole
amounting in all to some one
hundred acres a little more or
less. & bounded on the north by
lands of L. H. Davis. East by
lands of Susanna Everette. South
by lands of Mrs S. R. Russell
West by lands of L. H. Davis & Mrs
Margaret Ridley
We allowed to Susanna Everette
East side of said farm. bounded
on the north by Holloway River
and R. S. Pope's land. East by land
R. S. Pope and down lands. South
by R. S. Pope's land and. West by
lands of Wm J. Gray. Starting from
a chopped pine tree on the West
bank of the Holloway River. Thence
to a mulberry post in the centre
of the low ground field. Thence
to a chopped hickory tree at
the low ground field gate
thence to a cedar tree in rear
of the front or wood field. thence
to a Dogwood post on the
boundland and appletable's
church road. also a tract
containing about 34 acres

Holloway River

a little more or less which was also bought by her father from the late Wm. B. Lamb. This tract being bounded on the East by the lands of R. S. Pope. North by the lands of Mrs S. R. Russell South by Lands of Mrs Margaret Ridley. West by Some. The whole amount allowed her being about one hundred and ten acres a little more or less That we consider the above division in every way a a fair. just and equitable one. all of which is most

Respectfully submitted by

Dec 15th 1891

Q W Davis
J. R. Kellow
Jons Gray
Commissioners

Everett Admr
vs. } Stat: of Rules
Everett et als.

EVERETT WADDEY CO.,
RICHMOND, VA.

J. L. Barham, L. Everett, J. H. Barrett, administrators d. b. n. c. t. a. of L. F. Everett, decd. Julia Everett, F. E. Everett, Mrs Elma Britt and J. H. Britt, her husband, Mrs Vassie L. Baxter, and W. J. Baxter, her husband, S. B. Bryant, Lizzie Bryant, J. N. Bryant and Rowena Bryant, her husband, J. H. Barrett, in his own right, R. E. Barrett, Mark E. Barrett, J. E. Barrett, James Everett, Richd. Everett & M. Hill.

Plaintiffs } In Chy.

vs.

L. M. Everett, Jos. B. Everett, Percy G. Everett, Roy L. Everett, Ben Everett, Alice E. Everett, H. R. Barrett, Lucy E. Barrett, Maynard Everett, John Hill, Ray Hill, Don Hill, Susie Hill, E. J. Hill, are minors by E. F. Story, their Gdn. ad litem,

Defendants

1901, 14th Sept. Process issued to 2nd Sept. Rules.
1901, 2nd Sept. Rules. Process executed
Bill & Exhibits filed.
E. F. Story appointed Gdn. ad litem to infant defendants
Decree Nisi
1901, 1st Oct. Rules. Bill taken for confessed and Cause set for hearing

Everetts Receiver
vs } Decree
Everett &c.

This day this cause came on again to be heard on the papers formerly read and upon the petition of W. J. Gray. and was argued by Counsel. On consideration whereof the court doth adjudge order and decree that W. J. Gray be made a party defendant to this suit. And the Court doth further adjudge order and decree that C. W. Davis J. R. Kello and James Gray who are hereby appointed special commissioners for the purpose, shall after having given due notice to the said Susanna Everett and W. J. Gray proceed to divide the said track of land whereof Wm. J. Gray died seized and possessed exclusive of the widows dower therein into two equal parts. having regard to quantity and quality employing if necessary a competant surveyer to assist them and allot one part by metes and bounds to Susanna Everett and allot the other part by metes and bounds to W. J. Gray, but if partition cannot be conveniently made then they further report to whether either of the said parties will take the entire tract and pay to the other party such sum of money as his or her interest therein may entitle him or her to, or whether

the interest of all parties will be best promoted by an allotment of a part and sale of the residue or a sale of the entire tract and division of the proceeds among them according to their respective rights. and report to court. and by consent of all parties given in open court by counsel the court consenting for the infants in this cause. ordered that the further hearing of this cause may be had in Vacation

A Copy

Test. B. F. McLemore C.C.

Everett Receiver
vs
Deeds
Et al

Everett Decree &c.

vs

Decree.

Everett &c.

This day this cause came on to be again heard upon the papers formerly read, the report of Comr. McLennan filed Apl 10. 1891, to which there is no Exception and now agreed by Counsel. On consideration whereof, and it appearing to the Court from the aforesaid report that it is to the interest of the infant Susanna Everett, that her interest in the lands of her father Wm J. Gray deceased be sold and the proceeds thereof reinvested in the land which her husband J.G. Everett has lately agreed to purchase. The Court doth adjudge order and decree that W.J. Scheere who is hereby appointed a Special Comr. for the purpose see at public auction the interest of the said Susanna Everett in the lands of her deceased father after giving twenty days public notice of time & place of sale, upon following terms. one half cash balance in twelve months from day of sale, the purchaser to give bond with such security as the Comr may require carrying interest from day of sale. and title retained for deferred payments. Or shall the purchaser so desire the whole of the purchase money may be paid in cash. But before the said Comr shall proceed to act under this decree he will execute before the Clerk of this Court a bond in the penalty of $1500. with security to be approved by said Clerk conditioned to faithfully perform his duties under

this or any further decree in the cause. And said Cause Nisi file with his deposit a certificate from the Clerk of this Court that the bond required by this decree has been properly executed before he acts hereunder.

Santa Rosa Co. v. Escambia Co. 3rd Decision Injunction

1891 May Term

To be Recorded C M D

End page 459

Everetto, Receiver

vs. Sum:

Everetto et al:

1890. 1st Oct: Rules

Cir: Ct:

Prince & Debrell. p.q.

Executed Oct 1st 1890 by delivering a copy of this Summons to J. L. McKeown Asst Adm and Liq.

J. A. Williams Sheff

X

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON Susanna Everette and Wm Lawrence Everette. both minors. by J. L. McLemore Gdn 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 1st Monday in October next, to answer a Bill in Chancery exhibited against them in our said Court by J. C. Everette, Reciever of Susanna Everette

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

WITNESS, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this 30 day of Sept., 1890, in the 115th year of the Commonwealth.

B. F. McLemore C. C.

Everette Receivr
vs 3 Decree
Everettere

This day this cause come on again to be heard on the papers formerly read and upon the petition of W.J. Gray and was argued by counsel. on consideration whereof the court doth adjudge order and decree that W.J. Gray be made a party defendant to this suit. and the court doth further adjudge order and decree that L.W Davis. J.R. Kello and James. Gray, whom hereby appointed special commissioners for the purpose shall ofer having given due notice to the said Susanna Everette and W.J. Gray proceed to divide the said tract of land whereof Wm J. Gray died seized and possessed. exclusive of the widow's dower therein. into two equal parts. having regard to quantity and quality. employing if necessary a competent surveyor to assist them. and allot one part by meles and bounds to Susanna Everette and allot the other part by meles and bounds to W.J. Gray. but if partition cannot be conveniently made then they will further report whether either of the

said parties will take the entire tract and pay to the other party such sum of money as his or her interest therein may entitle him or her to, or whether the interest of all parties will be best promoted by an allotment of a part and sale of the residue or a sale of the entire tract and division of the proceeds among them according to their respective rights. And report to court. and by consent of all parties given in open court by counsel the court consenting for the infants in this cause ordered that the further hearing of this cause may be had in vacation

Entered Record 1904.-
133rd Decree
Record R

To be entered
Nov 15 1904
Court

Memorandum
Opinion filed
and ordered
this
stands over
ruling Nov 15 1904

Entered

Everette, Rec't
v. } Decree.
Everette &c.

This day this cause came on to be heard upon the bill of the Complainant, the answer of the infant defendant by J. L. McLemore, G'dn ad litem, and the answer of Susanna Everette, an infant over 14 years of age, sworn to according to law, 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 and report to the Court,

1st. Whether or not it would be to the interest of the infant, Susanna Everette, to sell the Real Estate now owned by her mentioned in Complainants bill, and invest the proceeds arising from such sale, for her benefit, in the farm recently purchased by her husband, & also mentioned in complainants' bill.

2nd. Whether the rights of any person would be violated by such change of investment,

Which inquiries the Commissioner will make and report to the Court

together with any matter specially stated, deemed pertinent by himself, or required to be stated by any interested party.

Byrd Gray
B. W. Everette
A. G. Never

Everette, Recd.
v. 3 1/2 Brans.
Everette vs.

Nov. Term 1890.

To be entered.

Cmd
Nov 7, 1890

Ent

Price & Gilbert, Pr's

Southampton Circuit Court: Nov. Term 1891.

Everett, Recvr.

vs. Decree

Everett &c.

This day this cause came on to be heard upon the bill of the Complainant, the answer of the infant defendants by J. L. M. Lewis, Esq. ad litem, and the answer of Susanna Everett, an infant under 14 years of age, sworn to according to law, 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 and report to Court,

1st Whether or not it would be to the interest of the infant, Susanna Everett, to sell the Real Estate now owned by her & mentioned in Complainant's bill, and invest the proceeds arising from such sale, for her benefit, in the farm recently purchased by her husband, & also mentioned in Complainant's bill.

2d Whether the rights of any person will be violated by such change of invest-

which inquiries the Commissioner will make and report to the Court, together with any matter specially deemed pertinent by himself or required to be stated by any interested party.

A Copy - Test: B. F. McLemore C.C.

Everetto, Rec"n

vs. { WITNESS' SUBPŒNA.

Everetto &c.

1891. April 10."

Executed by
J. C. Everetto.

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 401.

The Commonwealth of Virginia,

To the Sheriff of the County of Southampton, Greeting:

You are hereby commanded to summon Byrd Gray, B. H. Everett and A. G. Newsom

personally to appear before the undersigned, one of the commissioners in chancery of the Circuit Court of the Co of Southampton, at his office, at the court-house of said county, on the 10 day of April 1891 next, to testify and the truth to say in behalf of J. le. Everett Receiver

in a certain matter of Guardian account

referred to the said commissioner for report, by a decree of the said court in a suit in chancery therein pending between J. le. Everett, Receiver & Susanna Everett &c. Wm. L. Everett

And this they shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness, B. F. McLemore, Commissioner of the said court, at the court-house of said county, the 11 day of March 1891, and in the 115 year of the Commonwealth.

B. F. McLemore, Comm'r

We acknowledge legal service of the within
Written Notice.

We acknowledge legal service of this
written Notice.

Everett, Receiver

Notice

Everett Xf

1891. Apl 10"

COMMISSIONER'S OFFICE,

COURTLAND, VA., March 11 1891

To J. Le. Everett Receiver -
and Susanna Everett and Wm L.
Everett - both minors -

You are hereby notified that I have fixed upon the 10th day of April 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 or not it would be to the interest of the infant, Susanna Everett - to sell the Real Estate now owned by her & mentioned in Complainants' bill, and invest the proceeds arising from such sale, for her benefit, in the farm recently purchased by her husband, & also mentioned in Complainants' bill.

2d Whether the rights of any person would be violated by such change of investment.

with any other matter deemed pertinent by the Parties.

required to be taken by a decree of Southampton Circuit Court, rendered at the November term, 1890, 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 the said Court, the day and year first aforesaid.

B. F. McLemore Commissioner.

To the Sheriff of Southampton county to execute.

Everetts Receivr
1st Report.
Everetts &c. 1852

apl 10

The evidence of Byrd Gray. B. M. Everett and A. G. Mews. taken by B. F. McLemore, Commissioner in Chancery in the 18th day of April 1891. to be used by said Commissioner in making a report in the Chancery Cause of Everett, Receiver, &c. Everett &c.

The Witness Byrd Gray. being duly sworn, says:

Q: State your age, residence and occupation, and whether or not you know the two tracts of land mentioned in the Complainants bill?

A: My age is 44 years. reside in Southampton County. am a farmer, by occupation and know the land mentioned.

Q: State whether or not it would be to the interest of Susanna Everett to sell the real Estate now owned by her, and invest the proceeds arising therefrom for her benefit, in the farm recently purchased by her husband, & mentioned in Complainants' bill?

A: I think it would be best to sell and re-invest as proposed in the Plaintiffs bill. the land owned by Susanna

Everett has no improvements on it, and the land recently purchased by her husband, has improvements. Consisting of dwelling & other necessary buildings. It costs a great deal to build.

Q: Will the rights of any party be violated by such change of investment?

A: I think not.

And further this deponent sayeth not.

Byrd his + Gray
mark

The witness B.W. Everett and A.G. News, being duly sworn: say: we know the tracts of land mentioned and the parties to this suit. and think it will be to the interest of Susanna Everett to sell her land and invest the money in the land recently purchased by her husband. and we further say that, in our opinion, the rights of no party will be violated by such change of investment.

B.W. Everett

A.G. News

Commissioner's Office
Courtland, Va.
April 10th. 1891.

To the Circuit Court of Southampton:
Pursuant to a decree of said Court rendered at the November Term 1890. in the Chancery Cause of Everett, Receiver &c Everett &c. - directing that certain accounts be taken. The undersigned Commissioner, to whom said decree has been referred, reports to Court, that on the 11th day of March 1891, he issued Notice against the parties interested. (legal service of which has been acknowledged. and is filed herewith) requiring them to appear at his Office, on the 10th day of April 1891. at which time and place he should proceed to take the accounts required by said decree. he also issued Subpoenas against Byrd Gray. B.W. Everett and A.G. Neves, as witnesses - they being farmers and men of good judgment, supposed to be disinterested and familiar with the facts in the case. and said witnesses having appeared and been duly sworn and examined,

the Commissioner submits the following report: That it will be to the interest of Susanna Everetto to sell her undivided interest in the land of which her father Gray died seized - and have the proceeds arising from such sale invested, for her benefit, in the tract of land recently purchased by her husband, each of said tracts being mentioned and described in the proceedings of this cause: That the rights of no person will be violated by such change of investment.

The Commissioner states further, that the land now held by Susanna Everetto has no buildings or other improvements upon it. and that the financial status of the parties is such that they cannot afford to build. While on the other hand, the land recently purchased by J.C. Everetto. and upon which the parties reside, has a dwelling and other necessary buildings thereon.

Respectfully Submitted.

B. F. McLemore

Com'r in Chancery

Com'r fee $5.00

ch Plaintiff.