1817-008 Chancery Causes, Samuel Batten vs Thomas Haskins, admr of George Powell

Dsle of Wright County

To the justices of Isle of Wight county, sitting in chancery, humbly complaining, sheweth unto the court, your orator Samuel Battin.

That George Powell late of this county departed this life on or about the day of a.D. 1744, after having duly made and published his last will and testament in writing, an attested copy of which is hereto annexed as a part of this bill. That the said George by his said will left his whole estate to his widow for life, and devised that at her death, the same should equally devided among all his children. That the said George left two valuable negroes and other personal property, and that your orator intermaried with Nancy Powell the daughter of the s.d George. That his said wife Nancy is since dead, and that your orator has administered upon her estate. He also states that the said widow is also dead, and that Thomas Gaskins is administrator de bonis non of the testator George Powell, and your orator believes is in possession of the whole estate. Your orator alledges that he never received any part of the said testator's estate either in the life time of his wife, or since, and the said Thomas Gaskins refuses now to deliver to him the portion of it to which his wife was justly and legally intitled.

In tender consideration whereof, and for as much as your orator is remediless at law, he solicits the intervention of this court.

To the end therefore he prays that the said Thomas Gaskins may be made defendant to this bill of complaint, and that he may upon his corporal oath full, true and perfect answer make to all and singular the

allegations aforesaid, and that as fully as if the same were here repeated, and he thereto particularly interrogated, and more especially that he set forth what estate of George Powell ever got to the hands of the said widow, and how much of the same ever came to his own hands, either before or after her death, and also how much of it there is now, where, and the kind of estate. He lastly prays that your worships will decree that the said Thomas pay to him in right of his aforesaid wife and as her admr, one full part of the whole estate, or that you will make any other order or decree in the premises, for his relief as may seem just &c.

May it please &c.

Rich.d W. Byrd
Sol.r

Batten admr
vs
Gaskins admr
} Bill

March 1805
Bill filed
April 1805
Writ decree

Sept. 1806
Ans.r filed
June 1816
order of reference
January 1817 Auditors
Reps. rec.d & recd accordingly

The answer of Thomas Gaskins admr. Debonis non of George Powell dec^d to a bill of Complaints exhibited against him in the worshipfull Court of Isle of wight County in Chancery, by Samuel Batten. This respondent now and at all times hereafter saving and reserving to himself all right and manner of exception to the Complainants said bill, for and on account of the errors, misstatements &c which it Contains; for answer thereto or to so much thereof as he Considers necessary or important for him to answer unto, he answering saith. That it is true George Powell did dis'state about the period of time in the bill Stated, and that the will Contains a Clause or Clauses directing Certain Lands or perhaps all his estate, at the death of his wife, to be equally divided among his Children: On that point, as to the expres words, The will must Speak for itself: this respondent has not a Copy Convenient and does not precisely remember them. He Contends however that by the intention of the testator fairly deducable from the will and other evidence which Can be produced, the Complainants Claim in this Case is unfounded; the said Nancy, the Complainants former wife, in whose right, as her administrator he Claims, having departed this life long before the widow of said George: and it being Clearly the testators intention that his estate Should be equally divided among Such of his Children as were living at his widows death. — This respondent, even if he is wrong on this point Conceives he ought not to be prematurely hurried into an account Cumand of his administration

of the said estate, as there are suits depending involving Considerable portions thereof. — ——

This respondent cannot say what estate of the said George came to the hands of the said Widow —; but he here annexes a list of such parts as came to his possession, & such as is now on hand as administrator de bonis non of said George, which list he prays may be taken as part of this answer. —

He prays hence to be dismissed with his costs in this case so wrongfully and unnecessarily incurred

May it please &c —

Barbour for dept

Isle of Wight County to wit.

1876. This day Thomas Gaskins made oath before me, a justice of the peace for the said County that the foregoing answer contains the truth to the best of his knowledge and belief. — Given under my hand — the date above written. —

Thos Smith J.P. Seal

The Commonwealth of Virginia to the Sheriff of Isle of Wight county greeting we command you that you summon Thomas Gaskins Administrator de bonis non of Geo. Powell dec.
to Appear before our Justices of our county court of Isle of Wight at their court house of said county, on the first Monday in Nov.r next then and there to Answer a bill in chancery against him exhibited by Samuel Battin Administrator of Nancy Battin dec.d
And this he shall in no wise omit under the penalty of £100
And have then there this Writ. Witness Nathaniel Young clerk of our said court the 21st day of Oct. 1803 and in the 28th year of the Commonwealth
Nath.l Young

Battins admor:

vr

Powells admor.

Sp.a. in Chy

Jan.y 1804

rule for bills

Edwards Johnson Dtor

William Blunt Exr

In Obedience to the annexd Order of the Honourable Court of Isleof=wight County bearing Date June Court 1816 We the undersigned having been chosen by Samuel Ballen Plaintiff, and Burwell Harriss Admr. of Thomas Gaskins decd who was Admr of Georg Powell decd to Settle all matters of difference between them relative to a Suit in the Chancery Court of Isleofwight which the Said Samuel Ballen Brought against Thomas Gaskins in his life time as Admr of George Powell decd We therefore having fully examined the proofs and Allegations of both the Said Partiess Whereupon it is agreed and determined that the said suit be dismissd at the cost of Burwell Harriss Admr of Thomas Gas=kins decd defendant and that the Said Defendant payunto the said Samuel Ballen Plaintiff the Sum of Twelve Pounds nineteen shil=lings & one penny with Interest from the 18th day of December 1802 till Paid Given under our hands and Seals this 12th day of June one Thousand eight hundred and Sixteen

Jas Johnson Sen Seal

Edm Eley Seal

Isaac Collins Seal

James Johnson Esq.r Capt.

Isle of wight County, to wit,

April Court 1805

Samuel Battin Admor. of Nancy Battin dec'd ——— Compltt.

against

In Chancery

Thomas Gaskins Admor. of George Powell dec'd ——— Deft.

The Defendant having failed to file his answer to the bill of Complaint exhibited against him, by the Complainant in this cause, It is ordered that unless the Defendant appear here at June Court next, and file his answer, that Judgment will be entered for the Complainant against him, agreeable to the prayer of the said bill ——

Teste

Walth. Young Clk

Battins admor.

vs. Mss.

Powells admx.

A Copy. left

Willis Mills Atty

Answered through Interrogs

Ca. W. Winston Esqr

for W. Willis Atty

Isle of Wight County to wit, June court 1816

Samuel Battin Administrator of
Nancy Battin dec'd. . . . . Pl'ff Complt.

against

In Chancery

Thomas Gaskins Administrator de bonis
non of George Powell dec'd. . . . . Deft.

The parties by their Attornies, mutually submitting all matters in difference between them in this cause to the final determination of James Johnson Jun'r Edwin Ely and Isaac Collins and their award thereupon is to be made the Judgment of the Court and the same is ordered accordingly —

A Copy Teste

Wm. Wightwick D.C.