

1818-010

Chancery Causes: Thomas Phillips & al, by & c. vs Jacob Darden & John Darden

Isle of Wight County

To the Worshipful Court of Sale of Middlesex County in
Chancery, sitting, humbly complaining, sheweth your
honours your orator and oratrices Thomas Phillips, Sally John
Phillips and Robert Phillips infant children of Thomas Phillips,
suing by the said Thomas Phillips ~~and~~ ^{and} ~~applicants~~ ^{applicants}
~~and~~ their Guardian - That they are the son and daughter
of Sally Phillips deceased formerly Sally Borden which
said Sally was the aunt of a certain Martha Borden
who departed this life on or about the day of
Dominic 1817 intestate and under the age of twenty
one year, possessed or entitled to a certain tract or parcel
of land lying in the said County of Middlesex and
which said land the said Martha derived by descent
from her father David Borden. - Your orator and
oratrices represent that the said Martha being so entitled
to the said land died an infant without issue, leaving no
brother or sister, Grand father or Grand-mother - but leaving
two brothers of the father and the ~~and~~ children of a sister
of the father, to wit your complainants, and which said
two brothers of the father are Jacob Borden and John Borden
wherein it is prayed may be made defendants to this Bill of
complaint, and that they be compelled, just true and lawful
answer to make to all and singular the allegations in this
Bill contains, fully and unambiguously. They have been advised
that the real estate of inheritance descends by descent from the
father, and to which the said Martha Borden as infant, was
entitled, upon her death, descended in part to her sons
~~and~~ and the descendants of the aunt on the part of the
father and that the property ought to be divided into three
equal shares, one third of which should be allotted to your
complainants as representing their deceased mother, and one
third to Jacob and the other third part to John Borden, which
division they are informed cannot be ~~lawfully~~ made without
the aid of this Court of equity in which matters of this
kind are properly cognizable, they therefore pray the inter-
ference of your worship in their behalf. Your orator and
oratrices further represent that they have been informed and
verily believe that the said Jacob and John Borden have by
deeds of bargain and sale, duly executed, conveyed to a certain
Thomas Borden all their right and title to the land to which
the said Martha in her lifetime was entitled, and which
said Thomas Borden as well as all other persons intended
they pray may be made defendants to this Bill of

complaint, that they he and the other having an interest
may also answer and the allegations in this Bill as fully
and perfectly as if the same were here again repeated
and they thereto more particularly interrogated that
they say whether all the principal allegations herein con-
tained are not true and what objection, if any, they
have to a division of the property as aforesaid. They
believe from the situation of the land aforesaid, that the
division of each heir upon a proper division (will not
exceed the value of one hundred dollars, and under
such circumstances they suppose it will be much best
and understand it to be lawful for this County Court
to direct the sale of the said land, and the distribution
of the money arising therefrom, according to the rights
of each claimant. They therefore pray that your
wishes will decree and order that the said land be
sold, or sent a credit as may seem best, and the proceeds
of the said sale be divided and allotted in the following
manner and proportion to wit, one third to Jacob Darden
or the purchaser under him, one third to John Darden
or the purchaser under him, and the remaining one third
equally between your complainants; and that your
honors will appoint fit and proper persons to carry
into effect the said decree and make any other order that
decree in the premises which may comport with justice
and equity - and as in duty bound they will ever pray.

Attorneys for Thomas Phillips for Tho., Betsey & John
Phillips

The answer of John Darden and of Jacob Darden to the
Bill of complaint exhibited against them in the County
Court of Giles County by Polly Phillips, Betsey & Thomas
Phillips infants of tender years being by Thomas Phillips their
guardian. -
The respondents now and at all times
heretofore saving and reserving to themselves, all and every
right of exception to the errors & uncertainties in the Bill
of complaint contained, for answer thereto, or to so much
as it is material for them to answer, answering say
that they have sold and conveyed to Thomas Darden all
their right to the land mentioned in the complaints
Bill. They cannot justify the allegations in the Bill &
pray them to be dismissed &c.

Attorneys p. &c.

John Darden
his
Jacob & Darden
cork

The answer of Thomas Darden to the Bill of complaint
exhibited against him in the County Court of Giles County
by Polly Betsey and Thomas Phillips infants of tender
years being by Thomas Phillips their guardian -

This respondent says that he has purchased of Jacob and
John Darden their right and interest in the land to which
Martha Darden was entitled in her lifetime and which
she derived by descent from her father David Darden,
he really believes that the complainants are entitled to one
third part thereof in right of their deceased mother &
that a sale of the said land and a distribution of the money
arising therefrom according to the rights of each claimant
ought to be effected. He prays them to be dismissed with
reasonable costs in this behalf sustained. -

Attorneys p. &c.

Thomas Darden

By consent of parties the appeal of the Court this came
 came on this day to be heard upon the bill, answer
 & and reports of Councils whereupon the Court
 sold a rule, order & decreed that John Phillips and
 estate sell or either of them having first ~~examined~~
 ascertained the time & place of sale at some publick
 place in Hilsbury St ^{for ten days} ~~last~~ or proceed to sell to the
 highest bidder on a credit of 9 - months except so
 much shall as will be necessary to pay the expenses
 of this suit ^{which will be for costs} & that they divide the proceeds
 thereof & allot as follows, ~~to wit~~ ^{two} thirds to ~~John~~
 Thomas Darden
 and the remain $\frac{1}{3}$ divide equally between the said
 complainants in this bill - that they take bonds with
 approved security payable to the said Darden & the said
~~of~~ complete guardian ~~according to the respective~~
 proportions - that they ~~indemnify~~ ^{for} ~~the~~ ^{the}
 Court in order to a final decree -

Philips & Co
 vs 3 Chy
 Darden & Co

March 1818 Bill filed
 filed & decreed accordingly
 April 1818 Order to amend
 decreed
 June 1818 report ret^d and
 decreed accordingly

June Judgments

1818

Atkinson

Inobedience to the annexed decree of the County
Court of Isle of Wight. to us directed we the under-
signed Commissioners have this day set up and sold
at publick Auction to Thomas Darden the highest
bidder the lands in the said decree mentioned for the
sum of nine hundred and twenty dollars and
after deducting fourteen dollars for Cost and
forty six dollars for Commissions which was paid
in Cash have divided and taken bonds payable
in nine months to the several heirs or legatees
in the said decree named that is to say to Thomas
Darden five hundred twenty three dollars and
thirty three $\frac{1}{2}$ Cents. to Betsy L Phillips ninety five
dollars and fifty five $\frac{1}{2}$ Cents to John Phillips ninety
five dollars and fifty five $\frac{1}{2}$ Cents and to Thomas
Phillips ninety five dollars and fifty five $\frac{1}{2}$ Cents
making an aggregate of eight hundred and sixty
dollars the balance of the proceeds of the sale
after deducting the Cost and Commissions as above
mentioned. Given under our hands this 12 day
of March 1818

Nathl Mills
John Phillips } Commissioners

Deed Wright County March court 1818

Belief L. Phillips, John and Thomas Phillips
infant children of Thomas Phillips, suing by
the said Tho. Phillips their next friend

Complts

against

John, Jacob & Thomas Darden

Defendants

In Chancery

By consent of parties and the appt of the court this cause
came on this day to be heard upon the bill answer and arguments
of counsel. Whereupon the court doth adjudge order and decree that
John Phillips and Nathaniel Mills or either of them, having first
advertised the time and place of sale at some public place in
Deed Wright County for ten days, do proceed to sell to the highest
bidder ^{subject to the direction of Robt Hall wife of Geo Hall} on a credit of nine months (except so much thereof as
will be necessary to pay the expenses of this suit which will
be for cash) ^{the said bill is to the estate of Darden deceased in} and that they divide the proceeds thereof and allot
as follows to wit, two thirds to the defendant Thomas Darden in right
of the said John & Jacob Darden and the remaining one
third divide equally between the said complainants that
they take bonds with approved security payable to the said
Thomas Darden and the said complainants guardian for
their respective proportions and make report thereof to
the court in order to a final decree —

Attest Teste David Dick D.C.

He & P