

1819-015

Chancery Causes - Polly Eley vs al

vs John B. Eley, adm of Lawrence Eley

Judge of Wright County

Plot

Polly Cley and others
to 3 Bills
John B. Cley. answer

Jan'y 1819 Interly decd

April 5th 1819 Report ut^{re}

~~Admors accordingly~~ in

May 3rd rept. of Slave
at ~~10th 1819~~ Court

June 1819 final decd

June Judgments
1819.

Prentiss. an.

Isle of freight.

611
08
69
82
962

without the sanction of a decree of some court of competent authority, to decide the several questions which may arise under the facts herein before stated, especially as there are several infants concerned therein. That either to refused to comply with the requests of your orators, and oratrices in this behalf.

On tender consideration whereof, and for as much as your orators and oratrices are only and properly relievable in a court of equity where alone guardian's accounts can be settled, the sale of lands decreed, and the partition and distribution of estates made.

To the end therefore that the said John B. Eley (who your orators and oratrices pray may be made a defendant hereto) may be compelled on his corporal oath, full true and perfect answer to make, to all and singular the premises herein before set forth, and that as fully as if the same were here again repeated, and he thereto especially interrogated.

That the said John B. Eley, may be compelled by a decree of this worshipping Court to settle the account of his guardianship of the said Lawrence Eley deceased before the Commissioner of this Court.

That a Commissioner may be appointed by the order of this Court to make sale of the land, and slave now in the possession of the said John B. Eley, guardian of the said Lawrence Eley. That the proceeds of the sale of the said land and slaves together with any balance which may be due to the estate of the said Lawrence Eley in the hands of the said John B. Eley may be divided and distributed between your orators and oratrices according to Law. And that your orators and oratrices may have such other and further relief in the premises as is most consistent with equity and good conscience.

May it please your Worships to grant unto your orators and oratrices, the Commission under the writ of Subpoena, directed to Commanding the said your orators and oratrices as in duty bound will ever pray &c

To the worshipful the Justices of the County of Wright
County in Chancery sitting

Humbly complaining shew unto your worships, your orators and oratrices Polly Eley, Benjamin, Gilbert, Edwin, Peggy, Mills, and Patsy Eley which said Benjamin, Gilbert, Edwin, Peggy, Mills, and Patsy are infants under the age of twenty one years suing by ~~and~~ ^{their} ~~Eley~~ ^{Carew Eley} their next friend.

That some time in the year 1817 a certain

That some time in the year 1817 a certain
Lawrence Eley, formerly of this county, died an infant, and Intes-
-tate, leaving your orator, Polly his mother, and your infant
orators and oratrices as his heirs at Law.

And your orators and matrones beg leave further to state to your worships, that the said Lawrence Eley during his life was entitled to a certain tract or parcel of land, situate lying and being in the said county of Wilt. supposed to contain Two hundred and forty acres adjoining the lands of John Eley, John D. Eley and others. which said the said Lawrence Eley the deceased infant, derived title, from his father Robert Eley dec^d late of the county aforesaid.

And your orators and oratrices further state that the said Lawrence Eley during his life was entitled to a slave named Moses, which he acquired from a deceased Uncle-

and that he was also entitled to a considerable share
of personal property from his said father's estate. -

Which said land and slave is now, and has for
some time past, ~~been~~ in the possession of a certain John
B. Eley who was the qualified guardian of the said
Lawrence Eley, and who in that character has continued
to rent out the land, hire out the slave and to receive
the profits from the other parts of the estate of his said
ward. That as the distributive share of each person entitled
will not amount in value to one hundred dollars, and it
will be impossible to divide the slave in kind amongst the
several persons entitled thereto, they have been very desirous
that the said John B. Eley should sell the land and slave
settle the account of his guardianship of his said ward,
and divide amongst your orators and oratrix, the several
sums or proportions which they might be entitled to.

But now so it is, may it please your Worship
that the said John B. Eley, believing that he has no power
to make these sales, and the distribution desired,

John B. Eley
adv^d of Ans.
Polly Eley Sother's.

your respondent is executor, has not yet been settled, nor has it
been possible for him to do so; whenever the distributive share
to which his late ward was entitled shall be ascertained,
your respondent will then pay it to those who may be
authorized to receive, and grant a discharge. The land
and slave before mentioned is all the property of his late
ward which has come to his hands and possession as
guardian. And your respondent further answering
saith that it is true as charged in the complainants
bill, that the said Laurence Eley, departed this life an
infant, and intestate, some time in the year 1817 - and was
unmarried, and left no child or children. What effect, the
facts herein before stated, relative the mode of acquiring
the real and personal estate, the death of the said Laurence
Eley while an infant, and dying without a child, may
produce upon the distribution of his real and personal
^{estate} this respondent knows not, and submits to the worship
ful Court to decide.

and this respondent further answers
and says that it is true, ~~that it is true~~ that the said Laurence
Eley at the period of his death, left a mother, and brothers
and sisters, all of whom are now living, and are the
complainants in the bill, whose names are correctly set
out, - but in what proportions these distributees ought to
take the land and slave, ~~he~~ knows not, and submits to
this Court to pronounce, and determine -

altho this respondent is now, and ever hath
been ready to settle his account of his guardianship
of the said Laurence Eley decd, and to pay over to whoever
might be entitled thereto, any balance which might be in
his hands, yet being ignorant of the proper persons with
whom this settlement ought to be made, and to whom
the property in his hands ought to be delivered up he has
been unwilling to do any thing in this behalf, without the
direction of a proper Court, especially as ^{the} ~~the~~ were
infants concerned - without that &c. John B Eley

The Answer of John B. Eley to the bill of
complaint in the Worshipful Court of Wights
County in Chancery setting by
Polly Eley, Benjamin, Gilbert Edwin,
Peggy Mills and Patsy Eley, which said
Benjamin, Gilbert, Edwin, Peggy, Mills,
and Patsy are infants under the age
of twenty one years, suing by ~~their~~
^{Egypt Eley} ~~their~~ next friend,
exhibited.

This Respondent now and at all times hereafter saving
and reserving to himself all benefit of exception to any
errors or imperfections which there may be in the said
bill contained, for answer thereto, or unto so much
thereof as he is advised it is material or necessary for
him to answer unto, answers and says.

That he admits that he is the guardian of
the said Lawrence Eley decd duly appointed and qualified
as such: and that in that character, he has received
a small piece of land, and a slave, which belonged to his
said ward, an account of which, as well as of his trans-
actions relative thereto he is ready and willing to render
at any time and in any way, it may please this worship-
ful Court to direct. He hath at this time in his pos-
session the following estate of the said Lawrence Eley, to wit:
a tract of land in the County of Isle of Wight, supposed to
contain two hundred and forty acres, and is the same land
which the father of the said Lawrence Eley devised to him
the nature of which devise will be found by referring to
the will of Robert Eley, now of record in this Court. One
slave named Moses, ~~the father~~ to whom was derived
from Mills Lawrence an uncle of the said Lawrence Eley.
which land and slave is all the estate which has come
to the hands of this Defendant belonging to the said ward,
as his guardian. And here this defendant thinks it
is his duty to state, that the said Lawrence Eley was entitled
to a share in the estate of his father's moveable and
personal estate, but what amount your Respondent is
unable to say, as the estate of the father, to which

Pursuant to the annexed decree of the honorable court of Isle of Wight county
bearing date January Court 1819 we the undersigned commissioners
therein named have with the assistance of the County Surveyor divided the
land as directed in said decree among the Infant complainants as follows (to wit)
to Benjamin Eley Lot N^o 1. containing 35 acres be the same more or less —
To Patsy Eley Lot N^o 2 containing 35 acres be the same more or less —
To Mills Eley Lot N^o 3 containing 35 acres more or less —
To Gilbert Eley Lot N^o 4 containing 45 Acres be the same more or less
To Peggy Eley Lot N^o 5 containing 55 Acres be the same more or less —
And to Edwin Eley Lot N^o 6 containing 35 acres be the same more or less
as appears in the annexed plat: We have gone over the said land and
deligently & carefully viewed & examined the same, and tho, the lots
are not equal in quantity; it is our candid opinion that they are
equal in values as near as we in our judgments could possibly
lay them off which we report to Court this 25th of February 1819 —

John M. Eley
Samuel Eley
Thomas Bowderson



Ischofright County Feb 24th 1819 -

Surveyed two hundred & forty acres of land for the Estate of Lawrence Eley dec'd situate upon the south side of the long branch in the county aforesaid beginning at a post oak (near the head of said branch) standing in the field thence along a line of marked trees S. 52° E. 24 poles - S. 42° E. 10 poles - S. 50° E. 10 poles - S. 43° E. 15 poles - S. 65° E. 6 poles - S. 51° E. 28 poles - S. 55° E. 8 poles to the corner thence along the lands of John Eley's heirs N. 11° W. 14 poles - a corner tree thence along the land of John Eley's heirs N. 11° W. 14 poles - N. 65° W. 10 poles - N. 52° W. 10 poles - N. 50° W. 24 poles - N. 36° W. 14 poles to a branch then down the said branch the various courses thereof to the road near an oak thence N. 66° W. 52 poles to a pine - N. 73° W. 20 poles - N. 64° W. 14 poles - N. 74° W. 8 poles - N. 67° W. 18 poles - N. 60° W. 20 poles - N. 55° W. 20 poles to a large pine corner tree of John Bracey & Holing - thence N. 39° E. 40 poles - N. 32° E. 20 poles - N. 47° E. 17 poles - N. 52° E. 29 poles to a gum in the long branch then up the said branch the various courses thereof to the beginning.

By the direction of the commissioners appointed for that purpose have divided the said land in the following manner (to wit) The dividing line for lots N. 1 & 2 begins at a marked white gum standing by the side of the long branch thence S. 37° W. to Bracey's land.

The dividing line for lots N. 2 & 3 begins at large white Gum by the side of the said long branch thence S. 7° W. to John B. Eley's land.

The dividing line for lots N. 3 & 4 begins at a small black gum by the side of the long branch aforesaid at the path thence S. 2° W. to John B. Eley's land.

The dividing line for lots N. 4 & 5 begins at a maple in the long branch aforesaid thence S. 3° W. to the lands of John Eley's heirs.

The dividing line for lots N. 5 & 6 begins at a Red oak line thence S. 26° W. to the lands standing in of the heirs of John Eley dec'd as appears in the annexed plat.

Thos. Smalley Sur.

*Sale of Slave Moses
Report*

13

Pursuant to an Interlocutory decree of the honorable Court of Isle of Wight County we the undersigned commissioners named in said decree for that purpose have advertised the time and place of sale of slave Moses as directed by said decree more than fifteen days previous to the day of sale at several of the most publick places nearest thereto, which time and place is the 28th day of January at John B. Eley's Mill; and accordingly have, on the 28th day of January at John B. Eley's ^{mill} aforesaid, sold the said slave Moses at public auction for ready money to John Lawrence (who was the highest bidder) for the sum of two hundred & one dollars & twenty five cents, and after deducting a commission of 5% for our trouble leaves a balance of one hundred & ninety one dollars & twenty five cents to be added to the balance that may be found due upon the guardian acct of the s^d John B. Eley to the s^d Lawrence Eley) to be by the court hereafter distributed & given under our hands this 28th day of January 1819 —

Moses sold to Jⁿ Lawrence for \$201.25
 Commissions at 5% 10.00
 to be added to the bal. due \$191.25
 upon the Guar acct.

John B. Eley

Thos. Smalley

In. B. Coley Guar. act
of Lawrence Oley

Oley
as
Oley
May 3rd 1819 ret^d by the
Mr. Bond took as

Dr. _____

C.

[illegible]

Commissioners office (Isle of Wight)

Pursuant to an order of the honorable
Court of Isle of Wight county made at January Court 1849
John B. Eley hath rendered to me an acct of his Guardian
ship of Lawrence Eley orphan of Robert Eley decd and after
examining the same have settled & stated the foregoing
acct shewing on the 28th day of January 1849 a balance
of \$85.79 principle and 41 cents Interest due the orphan.
which sum together with the sum of \$191.25 the net
proceeds of the sale of Slave Moses makes the sum
of \$277.45 to be distributed by the court —

Four hours at 75
cents \$3.00

Thos. Smully M.C.

B. Eley, the nett proceeds of the sales of the slave Moses
herein before directed to be made, which moneys have come
to the hands of the said defendant to shew to the Court,
what will be the nett amount of the ^{sales of} slave, together
with any balance due on the guardian account to be
hereafter distributed. Liberty is reserved to the infants
complainants in this suit, to shew cause, if any, they
can against this decree, at any time, within one
year, after they shall respectively attain the age
of twenty one years —

decree.

Decree

Polly Eley and others vs. John B. Eley. Case.

By consent of the parties and with the assent of the Court, this cause came on this day to be heard on the bill and answer filed therein, and was argued by Counsel, on consideration whereof the Court doth ~~and~~ adjudge, order and decree, that Thomas Bowden Senr. John M. Eley, and Lemuel Eley, or any two of them (whom the Court appoint Commissioners for that purpose) to be attended by the county Surveyor, if necessary, do divide the tract of land in the bill mentioned, late the property of Laurence Eley decd. who died an infant, which land is said to be equal in quantity to two hundred and forty acres more or less, and adjoining the lands of John Eley and John B. Eley, situate in the county of Delaware.

And the said Commissioners, or such of them as may act, are directed to divide the said tract ~~of~~ equally, between the infant complainants, Benjamin, Gilbert Edwin Peggy, Mills, and Patsy Eley, having due regard to quantity, as well as quality.

And it is by the Court further adjudged ordered and decreed, that the defendant John B. Eley and Thomas Smelly (whom the Court appoint Commissioners for that purpose) do make sale of the slave Moses in the bill mentioned, for ready money at public auction, after advertising the time and place of sale, for at least fifteen days at two of the most public places nearest to the place appointed for such sale, and make report of their proceedings to this Court.

And it is further decreed and ordered that the defendant John B. Eley do render an account of his guardianship of the said Laurence Eley before Master Commissioner Smelly, one of the Commissioners of this Court, to be by him, examined, stated and settled, and to the Court reported with such matters specially stated thought pertinent by himself, or acquired by the parties. And the said Master Commissioner having settled the said account, is directed to add to any balance which may be found due by the said defendant John

is directed to add to any balance which may be found due by the
 said defendant John B. Ely, the net proceeds of the sales of the Slave
 Money herein before directed to be made, which shall have come to
 the hands of the said defendant. to show to the court what will be
 the net amount of the sales of Slave together with any balance due
 on the guardian account to be hereafter distributed - Liberty is
 reserved to the infant complainants in this suit to show cause if
 any they can, against this decree, at any time within one year
 after they shall respectively attain the age of twenty one year -

Attest Teste David Dick D.C.
 1826

20. Jan'y 1819 Slave
 sold to John Lawrence
 for \$ 201.25
 Com. 10.
\$191.25

Ely
 as
 Ely
 copy sealed

Polly Eley Benjamin Gilbert Edwin Peggy Mills
and Patsy Eley which said Benj: Gilbert, Edwin
Peggy Mills & Patsy are infants under the age
of 21 years being by them their next friend } Complainants
against } In Chancery
John B. Eley } Defendant.

By consent of the parties and with the assent of the court, this
cause came on this day to be heard on the bill and answer filed, therein
and was argued by counsel, on consideration whereof the court doth adjudge,
order and decree that Thomas Bowden sen^r John M. Eley and Samuel
Eley, or any two of them, (whom the court appoint commissioners for that
purpose) to be attended by the County Surveyor if necessary do divide
the tract of land in the bill mentioned, late the property of Lawrence
Eley dec^d: who died an infant, which land is said to be equal in quan-
tity to two hundred and forty acres more or less, and adjoins the lands of
John Eley and John B. Eley, situated in the County of Isle of Wight -
and the said commissioners or such of them as may act, are directed
to divide the said tract equally between the infant complainants
Benjamin, Gilbert, Edwin, Peggy, Mills & Patsy Eley, having due regard
to quantity as well as quality - And it is by the court further
adjudged, ordered and decreed, that the defendant John B. Eley and
Thomas Smalley (whom the court appoint commissioners for that pur-
pose) do make sale of the Slave Moses, in the bill mentioned
for ready ~~cash~~ money at public auction after advertising the time
and place of sale, for at least fifteen days at two of the most pub-
lic places nearest to the place appointed for such sale, and make
report of their proceedings to the court - And it is further decreed
and ordered that the defendant John B. Eley do render an account of his
guardianship of the said Lawrence Eley, before Master commissioner
Smalley, one of the commissioners of this court, to be by him examined
stated and settled and to the court reported with such matters speci-
ally stated thought pertinent by himself, or required by the parties -
And the said Master Commissioner, having settled this said account

Polly Cley & Others
vs. 3 Decree
John B. Cley;

^{Decree}
Polly Eley and others vs. John B. Eley. In Chancery.

By consent of the parties, and with the assent of the Court this cause came on this day again to be heard, on the bill answer and exhibits heretofore filed, and on three reports of the Commissioners returned in pursuance of the decretal order thereon made at January Court last past to neither of which reports any exception hath been taken, and now argued by Counsel, on consideration whereof the Court doth confirm the said reports, and doth further adjudge, order and decree, that after deducting from the sum of \$277.45, which appears by the report of Commissioner Donnelly to be now in the hands of the defendant, the costs of this suit, (except such of the said costs as is made up of the Surveyor's and Commissioners charges for dividing the land in the Bill mentioned) that the balance of the said sum of \$277.45 then remaining in the hands of the said defendant be divided into seven equal parts, and that one seventh part thereof be paid by the defendant to the complainant Polly - and that the remaining six sevenths be by this defendant paid over to the legal and proper guardian of each of the infant complainants Benjamin, Gilbert, Edwin, Peggy, Mills, and Patsey Eley.

And the Court doth further adjudge, order and decree, that the said defendant out of the remaining sum in his hands pay the costs of this suit as before decreed, as well the costs of the complainants as those by himself in this behalf expended - and it is further adjudge, ordered and decreed that the defendant out of any funds in his hands as guardian of the said infants pay the Surveyor's, and Commissioners fees for division of the land aforesaid.

Liberty is reserved to the several infant complainants however to shew cause against this decree, at any time within one year after they shall respectively attain the age of twenty one years.

Surveyors fees for dividing Lawrence
Oley land } \$16.80

3 Commissioners 2 day each at \$2. . . 12.00