

1833-002

Chancery Cases: Martha Fulgham, by & c vs Hezekiah Fulgham's admr & Polly

Isle of Wight County

Fulgham, by & c

Other surnames: Bridger,
Powell, Chapman

Martha Fulgham plaintiff
vs Bill, ansr
+ decrees.
Nerekiak Fulgham's atty.
Pentes. att.

Decr. 3^d 1832 docketed &
Hinterlocutory decrees
Jan 7th 1833. report of
com. filed

Isle of Wight
Co. Co.

and tend to the manifest injury and oppression of your Estates.

and your Estates by her said next friend begs leave to represent and shew, that a division of the said lands by reason of the inequality in the value and number of acres, and its distance from each other, is incapable of a just and equitable division, and that they are advised, that this Court sitting as a Court of equity, possess ample and complete power and authority to decree the sale of lands which descend from any person dying intestate, to two or more heirs any one of whom shall be an infant &c. where the divisions of each heir shall not exceed the value of three hundred dollars in the opinion of such Court. Your next friend charges that a division of the two pieces of land which descended to her and her sister, as heirs of their said father is utterly impossible of division without great loss and injury, and they therefore pray that this Court will decree a sale of the said two pieces or parcels of land as aforesaid and direct a distribution of the money arising from such sale, which will be of great benefit, according to the rights of each claimant.

To the said Petitioner she prays, that the said Joseph Powell administrator of Horsekiah Fulgham dec'd. and Polly Fulgham may be made defendants to this bill of complaint and the said Polly being an infant under the age of twenty one years by a guardian be appointed to her by this Court and be compelled to make true distinct and perfect answers to all and singular the allegations herein contained, as if the same were here again repeated, and they thereunto particularly interrogated. More especially that the said Joseph Powell administrator &c. may set forth & discover and declare whether the names of the slaves herein before set forth ~~discovered and declared~~ are not truly set forth, if not state the names ~~and number~~ and ~~number~~ truly. Has he any objection that a division of the slaves shall be made under a decree of this Court. Between the complainant and her sister Polly. Are they not the sole heirs of the said Horsekiah Fulgham and his sister Polly. And are they not the sole heirs of the said Horsekiah Fulgham dec'd. and are it be necessary to retain the slaves aforesaid named or any of them, for the payment of his intestate's debts. That the said Polly Fulgham may by her guardian to be appointed her, set forth & discover and declare whether the lands herein before set forth and described are not the only lands left by the said Intestate Horsekiah Fulgham - which under a division be necessary to all parties concerned. Is she willing that the said lands shall be made under the direction and authority of this Court and will she have a division of each heir exceed the value of \$300. ~~and~~ and the said Polly the said children and heirs at law of the said Horsekiah Fulgham dec'd. and entitled in good degree. Is she willing that a sale shall be made of the said lands and the proceeds divided equally between the infant complainant and infant defendant. And is she willing that the said lands shall be divided equally. Your next friend lastly prays that this Court will appoint ~~one~~ and proper person or persons to act as appraisers or commissioners for the purpose of making sale of the lands aforesaid and dividing the proceeds of the same among the proper claimants, and also to make equal division in kind of the slaves of the said Intestate.

And that this Court will make such further or further order or decree in the premises further relief of your complainant, as shall be more consistent with the principles and practice of Courts of equity.

May it please this Court to grant the Premises.

Protes. Atto for the Compt.

The separate answer of Joseph Powell administrator of Horsekiah Fulgham dec'd. to the bill of complaint of Martha Fulgham sister by Mills Bridger her next friend against them, and are other in this Worshipful Court exhibited.

This defendant now and at all times hereafter saving and reserving to himself all benefit and advantage of exceptions to the many persons uncertainties, and misrepresentations in the complainant's said bill of complaint contained, pr answer thereto, or unto so much thereof as he is advised, it is necessary and proper for him to make answer unto, Answer and says -

That he is the administrator of Horsekiah Fulgham dec'd. who died Intestate about the year 1829. And that it is true as charged by the complainant in her said bill that the said Intestate left a widow, and two children, namely the infant Martha complainant Martha, and the infant Polly. That the said Polly died soon after her husband before any division of the estate was made, and that the said Martha & Polly are the only children and heirs of the said Horsekiah Fulgham and equally entitled to his lands and slaves. - and this defendant further answers and says that the following slaves, viz, Jacob, Charlotte, Rekey, Chasey, Harriet, Caroline, and Edmund, are in his hands as owner of the said Horsekiah Fulgham dec'd. and that as he does not believe, that it will be found necessary to call on the aid of any of the said slaves for the purpose of paying debts of his Intestate, so he is willing that the said slaves may be divided under a decree of this Court according to law, he shews however for his protection reserve the right to require refunding bond, and shews according to law from the distributees. This def. admits that the Compt. by her next friend has applied to him for a division of the said slaves which he has refused, in regard that both the complainant and her sister at the time he was were infants, and therefore this defendant as he was advised, could not be safe in making such division but by the order and sanction of a Court of equity which Court this is, where matters of this sort are properly cognizable and alone relieved. - and this defendant denies all unlawful combination and confederacy with the said charged, without that there is any other matter or thing material or necessary for this defendant to make answer unto and not herein already answered unto, confessed or avoided, traversed or denied is true. all of which he

signed.

Joseph Powell admin.

To the Worshipful Court of Isle of Wight County, in Chancery
sitting.

Humbly Complaining sheweth unto the Court, your oratrix Martha Fulgham in
-sant orphan of Herakiah Fulgham dec'd. dying by Mills Bridger her next friend
by the Court admitted. That a certain Herakiah Fulgham, late of the County of Isle
of Wight, who was the father of your oratrix was in his life time, and at the period
of his death, seized and possessed in fee simple of in and to the following tracts pieces
or parcels of land in the County of said, which pieces of land are separated from
each other by several miles. That one of the said tracts is supposed to contain
one hundred and twelve and an half acres, and adjoins the lands of James
Johnson Senr. Robert Fulgham and others. The other tract of land is supposed
to contain fifty acres, and adjoins the lands of Edwin Gray and others,
and that the said Herakiah Fulgham was also in his lifetime,
and at the period of his death possessed of sundry valuable slaves, the names of
which at the period aforesaid, as their numbers are unknown to your complainant,
but she charges, by her next friend, that the following slaves viz. Jacob, Charlotte,
Roney, Charley, Harriot, Caroline and Mendoak, seven in number now exist, and
belong to the Estate of the said Herakiah Fulgham dec'd:

and your oratrix by her said next friend further
shews unto the Court that the said Herakiah Fulgham being so seized, and poss-
essed of in and to such land and slaves, on or about the day of
1829 died Intestate, leaving a Widow named Amelia. your oratrix, and
her sister Polly as his heirs at law. That the said widow departed this life intestate
not long after the said Herakiah Fulgham her late husband, and without any
division in the land or slaves as aforesaid having been made: so that the
lands and slaves named as aforesaid have descended and passed to your oratrix
and her sister Polly, as the sole heirs at law, being the only children of the said
Herakiah Fulgham dec'd. That the debts of the said Herakiah's Estate have
been paid off and satisfied as they are informed, and that therefore there exists
no obstacle, in law to a division of the said slaves, and in the partition as
stated above - and your oratrix by her said next friend further shews
unto the Court, that since the death of the said Herakiah Fulgham her
father, ~~with~~ obtained a certain Joseph Powell hath obtained letters of
administration to be granted unto him out of the County Court of Isle of
Wight in due form of law, upon the Estate of the said Herakiah Fulgham
and by virtue thereof possessed himself of all of the said Intestate's slaves, and other
personal Estate of considerable value, and the said Joseph Powell admin-
as aforesaid, having so possessed himself of the estate of the said Intestate, and it
being clear that the claims or all of them which are known in said, or in any
of them, will not be required to be sold to pay the intestate's debts, your oratrix
has well hoped that the said administrator would have come to a just and
fair division with her guardian and next friend touching and concerning the
premises. But now it may please the Court the said Joseph Powell is
as aforesaid, combining and confederating with divers persons unknown to your
oratrix, whose names when discovered they may be made parties to this
her bill of complaint with apt and proper words to charge them, in order to defeat
and defraud your oratrix on the premises, and having possessed himself of all the
slaves and personal estate of the said Intestate the said Herakiah Fulgham
the said Joseph Powell altho in a respectful manner requested by your
oratrix's said next friend refuses to come to any division of the said slaves
of the Estate of his said Intestate. He pretending at some times that your oratrix
being an infant, he need not account with her, or her legal guardian
during her minority, and that his said Intestate died considerably indebted: that
there are other heirs entitled to the said estate besides your complainant -
and at other times he pretends, that he cannot take upon himself to make
division, without the direction and aid of a Court of equity where matters of
this sort are cognizable, and alone believeable, and which Court this is.
all which actings and doings are contrary to equity and good conscience

Holly Fulgham per Lund
answer.

The separate answer of Polly Fulgham, infant, under the age of twenty one years, by Hardy Chapman her guardian specially assigned to defend her, one of the defendants, to the Bill of Complaint of Martha Fulgham infant suing by Mills Dodge her next friend, against Joseph Dodge adm^r of Hesekeah Fulgham dec^d. and the said Polly Fulgham in this Honorable Court exhibited.

The said defendant saving and reserving to herself, all and all manner of advantage of exceptions to the many untruths, errors, uncertainties, and other imperfections in the said bill of complaint contained, for answer thereto or unto so much thereof as these defendants are advised is material for her to make answer unto answering by her said guardian says. That it is true that the complainant, and this defendant are the only children and heirs of Hesekeah Fulgham dec^d and that their said father died about the year stated that their mother died very soon after her husband the said Hesekeah, and before any division of the said land or slaves of her said father's estate was made: That she is a stranger to the facts and circumstances disclosed as to the said land and the slaves left by her said father, otherwise than that she has heard that she together with the complaint her said father, equally entitled to any estate left by the said Hesekeah Fulgham their father, and this def^t has heard that her said father was in his life time seized of or entitled to two small tract pieces or parcels of land situate in the County of Polk, Mo^{nt}, and was possessed of some slaves, the names of whom, ~~and to the deceased~~ ^{and she has heard} Jacob, Charlotte, Remy, Chasey, Harriot, Caroline, & Murdock, and she has heard that her father died intestate - and this defendant being an infant of tender years submits herself to the judgment of this Honorable Court, and humbly hopes, that what right or title she hath to the said land and slaves of her said father shall be protected and saved to her.

without that, that &c.

(signed)

Hardy Chapman

which said Hezekiah Fulgham died died possessed into two
lots, to wit Jacob, Charlotte, Nancy, Chassey, Harriot, Caroline
& Murdoch the whole valued at one thousand and ninety
Five Dollars and Lot No 1 we have placed Jacob valued
at \$200. Nancy at \$200. & Harriot at \$150. and have attor-
-ed them to Polly Fulgham orphan of said Deed. & said
that she pay to Martha Fulgham Two Dollars & fifty cents
to make the Division equal. And to Lot No. 2 we have
placed Charlotte valued at \$215. Murdoch at \$55. Chassey
at \$175. & Caroline at \$100. and say that she is to receive
to wit Martha Fulgham orphan of said Deed who Lot No. 2
is attolled to from Lot No. 1 say Polly Fulgham aforesaid
the sum of Two Dollars & Fifty cents to make the said
Division equal. and the Commissioners have agree-
-able to said Decree delivered over Lot No 1 to Harry Chap-
-man Guardian for said Polly Fulgham & delivered Lot No. 2 to
Mills Birger Guardian for said Martha Fulgham given
under our hands this 24th day of December 1832

Ezra Eley
H. Chapman
William R. Eley

Martha Fulgham
N. 1. 3 copy from
H. Chapman
H. Chapman

In Obedience to the annexed Decree of the County Court of
Sleepyfork bearing Date December Court 1832 appointing
me a Special Commissioner to make Sale at public auc-
-tion of two Tracts of Land belonging to the Estate of Heze-
-kiah Fulgham Decd. Pursuant thereto after having Adver-
-tised the time & place of Sale as Directed by said Decree
have on this 24th day of December 1832 at the Mansion
House of said Decd. made Sale of the same and James
Johnson Senr being the highest bidder became the Purcha-
-ser of the Marmor plantation containing by estimation
one hundred & Twelve & a half Acres adjoining Robert
Fulgham & others for the Sum of Three hundred and ninety
six Dollars and Fifty cents and Robert. R. Pope at the
same time & place being the highest bidder became the
Purchaser of the other Tract of Land containing by estimation
Forty Acres adjoining the Land of Edwin Gray & others
for the Sum of one hundred and Eleven Dollars making
in the whole the Sum of Five hundred & Seven Dollars &
Fifty cents and after deducting the Sum of Forty two Doll-
-ars & thirty Seven cents which I received of the purchasers
in cash it being the amount of commissions at five pcts
the Clerk & Attorneys fees & three Dollars which was Paid
to the Commissioner who divided the Slaves mentioned
in said Decree left a net balance of Four hundred &
Sixty Five Dollars & thirteen cents for which last Sum
I have taken Bonds from each Purchaser Proportionally
to their purchases making the whole amount and have
taken good Security for the same and have paid over
to Mills, Binder Guardian for Martha Fulgham orphan of said
Hezekiah Fulgham Decd. in Bonds as aforesaid one half
the amount & to Hardy Chapman Guardian for Polly
Fulgham orphan of said Decd in Bonds as aforesaid the
other half of the amount which I report to the Court as

done under my hand this 24th day of December 1832

Saml Eley J. C.

In Obedience also to said Decree we the undersigned
Commissioners have pursuant thereto divided the Slaves

Fulgham to son
vs
Fulgham and son
vs
Fulgham and son

Guardian of the infant complainant and the
other payable to the legal & proper Guardian of
the infant Defendant and deliver the same to the
person respectively entitled under this Decree &
make report of this proceedings to this Court in order
to a final Decree. and it is by the Court further
Decreed and ordered that ^{Eli Thomas Chapman &} ~~Ernest~~
William H. Ely or any two of them after dividing into moieties
or halves the following slaves in the complainant's Bill set forth
namely Jacob Charlotte, Roney Chassey, Harriot Caroline &
Murdoch do attit and assign and deliver over to the legal &
proper Guardian of the infant complainant one of the said
moieties or halves and unto the legal and proper Guardian of
the infant Defendant the other moiety or half of the said slaves
and make report of their proceedings to this Court in order to a
final Decree and the ^{said} several persons so as aforesaid entitled to
parts or shares in the said slaves or some person or persons
for them before the delivery of their ^{respective} ~~relative~~ parts thereof are
directed if required to execute to the defendant Joseph Powell
A.M. as aforesaid refunding ~~him~~ with security conditioned
according to Law and liberties reserved to the infant defendant
in this Bill to shew cause if any she can against this decree
at any time within one year after she shall attain the
age of twenty one years

A copy teste
Nath. Young co. Clk

In Schofield County Court

December Term 1832

Martha Fulgham infant orphan of Hezekiah Fulgham
Died being by Mills Bridger her next friend by the
Court Admitted

against

Joseph Powell Administrator of Hezekiah Fulgham
Died and Polly Fulgham ~~infant~~ infant orphan
of the said Hezekiah Fulgham by Hardy Chapman
her Guardian Specially appointed to defend her
in this suit

Deft } In
Chy }

This cause came on this day to be heard by consent
of the Parties & with the assent of the Court on the bill
& answers filed & was argued by counsel on considera-
tion whereof the Court doth adjudge order &
Decree that Edmund Eley who is by the Court specially
appointed as a Commissioner after giving twenty
days notice of the time & place of Sale proceed to
sell at public auction on a credit of twelve months
the two Tracts ~~or parcels~~ ^{or parcels} of Land in the bill mentioned
the one of which is said to contain one hundred two
-three & a half Acres adjoining the lands of James
Johnson Sen: Robert Fulgham & others the other Tract
is said to contain forty Acres adjoining the land
of Edwin Gray and others Situate in the County of
Schofield and are the Lands of which Hezekiah
Fulgham Died seized & proposed that the said Comm-
issioner without regard to the above direction as to a
Sale upon credit receive from the purchaser or pur-
chases a Sum in cash sufficient to pay the expenses
of Sale and cost of suit and apply the same accord-
-ly that after deducting the ^{aid} expenses & cost divide
the net amt into two equal parts or shares &
for each of the said parts take bond with ample
Security one payable to the Legal and proper

In the night camp land.
H. M. M. 1832.

to the ... of the ...

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... of the ...

Decrees.

... of the ...

In Isle of Wight County Court.
December Term 1832.

Martha Fulgham infant orphan of Horekiah Fulgham dec?
suing by Mills Bridger her next friend by the Court admitted, Plff:
against:

Joseph Powell administrator of Horekiah Fulgham dec?
and Polly Fulgham, infant orphan of the said Horekiah
Fulgham. by Hardy Chapman her guardian specially
appointed to defend her in this suit. Defs.

2 In Chy.
3

This cause came on this day to be heard by consent of the parties and with the
assent of the Court, on the bill and answers filed, and was argued by Counsel
on consideration whereof the Court doth adjudge, order, and decree, that
Esam Eley who is by the Court specially appointed as a Commissioner, after gi-
ving twenty days notice of the time and place of sale proceed to sell at
public auction on a credit of twelve months, the two tracts, pieces, or parcels
of land in the bill mentioned, the one of which tracts is said to contain one
hundred and twelve and a half acres, adjoining the lands of James Johnson
senr. Robert Fulgham and others. The other tract is said to contain forty acres
adjoining the lands of Edwin Gray and others, situate in the County of Isle
of Wight, and in the lands of which Horekiah Fulgham died seized and
possessed. That the said Commr. without regard to the above direction as to a
sale upon credit receive from the purchaser or purchasers a sum in cash suf-
ficient to pay the expenses of sale and costs of suit, and apply the same
accordingly. That after deducting the said expenses and costs, divide the
net amount into two equal parts or shares and for each of the said parts
take bond with ample security, one payable to the legal and proper
guardian of the infant complainant; and the other payable to the legal and
proper guardian of the infant defendant, and deliver the same to the persons
respectively entitled under this decree - and make report of his proceedings
to this Court in order to a final decree: and it is by the Court further
decree'd and ordered, that Esam Eley, Anna K. Chapman, and William H. Eley, or
any two of them, ~~proceed~~ after dividing into moieties, or halves, the following slaves
in the complainants' ^{possession} set forth namely Jacob, Charlotte, Benly, Chassey, Hannibal
Caroline and Murdock, do allot and assign and deliver over to the legal
and proper guardian of the infant complainant, one of the said moieties or
halves: and unto the legal and proper guardian of the infant defendant
the other moiety or half of the said slaves, and make report of their proceedings
to this Court in order to a final decree: . . and the said several persons so as
aforesaid entitled to parts or shares in the said slaves, or some person or
persons for them, before the delivery of their respective parts thereof, are
directed, if required, to execute to the defendants Joseph Powell and Hardy
Chapman as aforesaid, refunding bonds with security, conditioned according
to law - and liberty is reserved the infant ^{defendant} in this suit, to shew
cause if any she can against this decree, at any time within one
year after she shall attain the age of twenty one years.

Isle of Wight County to wit

I Joseph Powell, Administrator of
the Estate of Hezekiah Fulgham Decd. do hereby
certify that the within Named Slaves and Land
belongs to the decd. Estate and that I have
no objection against the County Court of said
County to grant a Decree for a Division of
the decd Estate between his two Children namely
Martha Fulgham & Polly Fulgham they being his only heirs
and the same is not necessary for the payment
of the Decd Debts given under my hand this 23^d
day of November 1832 Joseph Powell

Consent of the Parties.

We Mills Bridger Guardian for Martha Fulgham
orphan of Hezekiah Fulgham Decd. and Hardy
Chapman Guardian for Polly Fulgham orphan
of said decd. do hereby certify that the said Heze-
kiah Fulgham Decd. died in the year 1829 and
a short time after his Widow died leaving the above
named two children twins, Martha & Polly,
their only heirs they having died without Will and
Joseph Powell Administered their estate and after
their debts were paid there is now remaining of
their Estates the Following Slaves to wit, Jacob Char-
lotte Henry Chasey Harriet, Caroline & Murdock
and two Tracts of Land containing 15 1/2 Acres and
we wish the County Court of Stepwight to grant
a decree to Divide the said Slaves between said
orphans and the said Tract of Land or direct a
Sale of said Land & Slaves for a Division between
the said orphans as they may think right and
we further request that the said Court would
~~to appoint~~ ~~and~~ ~~William A. Chapman~~ ~~as~~ ~~commissioners~~ ~~to carry~~
appoint ~~amely~~ ~~at~~ ~~commissioners~~ ~~to carry~~
the said Decree into effect Given under our
hands this 23rd day of November 1832

Mills Bridger
Hardy Chapman