

1853-004

Chancery Causes'. Nancy Duck, widow of Nathan Duck vs Nathan Ducks 'erton & al

Isle of Wight County

other surnames: Shivers,
Brock

Dec 2
Nancy Duck

vs. 3/3 Clancy paper

John W. Shivers Esq.
of Nathan Duck Decd.
& al.

Sept 5th 1853 Recd &
filed & ~~clearance~~

same rule. gov. ad litem app.
to info. his an^d filed sup.
also aw. of Shivers & Duck.
Duck. Sup.

Octo. 1853 act for
herring.

Octo 21. 1853 Dismissed

September the 1st 1853

Norfolk City to wit: personally appeared
for me a Justice of the for the City of
Norfolk, ~~Wm~~ Muncy, Clerk of the City
and State, aforesaid, and made Oath that the
within Bill was true

M. W. Parker J.P.

Duck

or

by Mail

Duck's address

Delivered Sept. 11, 1853

lands of said John M. Shivers, Thomas Goodson & others, containing by estimation forty acres, and worth in absolute fee simple about \$150. and of the net yearly rent or value of \$ that the improvements on said farm are very few, much out of order, and the land its self poor, & so unproductive that your oratrix was unable to make a support thereon for herself and children, that as she has not the money to improve & keep it in repair it will in a few years become uninhabitable yield no rent and she will be deprived of even that source of income, which is all her self & children have, except their daily labour.

Your oratrix further believes & charges that for the above reasons, & because it has seemed to answer the end designed by her late husband, (the support of herself & children) it has now become the absolute intent of all interested that the said land should be sold and the money or a part thereof at least, appropriated to the support of herself & children, Your oratrix believes & so she charges to should any of the children die under age, the survivor or survivors would inherit its or their portion of said land, & but for this reason & some other your oratrix would have sold said land as she conceives she has a right under the will to do, but is advisable has not.

the right so to do, which is the reason she brings this suit. In tender consideration &c, & for as much &c. Your Oratrix prays, that the said John M. Shivers executor as aforesaid, Archibald, Martha A & Julia L. Ducks the 2 last infants under the age of 21 years &c. may be made parties defendants to this Bill & be compelled on their several corporal oaths to answer the same as fully as if they were therunto specially interrogated, the 2 first in proper person, & the two last by a proper guardian ad litem to be appointed by for that purpose. That Your Honour will grant a decree authorizing a sale of said land, and allow a portion of the money arising from such sale to be appropriated to the support of herself & children, and grant all such other & necessary relief as may be fit & proper in the premises, and grant the Comth. writ &c.

A. A. Whitehead p. p.

1st

To the honorable Richard H Baker judge of the circuit court
for Isle of Wight County.

Humbly complaining, sheweth unto your honor,
your Oratrix Nancy Duck of the city of Norfolk that she is the
widow of one Nathan Duck late of the said county of
Isle of Wight, who departed this life sometime in the year 1848
after having first duly made and published his last will
and testament, which was duly proven, admitted to record, &
probate had there on in the Isle of Wight County Court, on the
6th. March 1848, by John M Shivers the executor therein named,
as will appear by an attested copy of said will herewith filed
(Marked A) and prayed to be regarded as a part of this Bill,
that at the time of said testator's death he was seized and posses-
sed of a small real and personal estate, and left as his ^{only} legatee
and devisee under his said will your Oratrix his widow.
and the following children viz. Martha A, Julia A and
Archibald Ducks, the two first children by your Oratrix
and infants under the age of 21 years to wit about the
age of 6 and 8 years respectively, that by the first item
of his will reads as follows (I wish enough of my estate to be
sold to pay All of my Just debts, and to send my son Archibald
to school for one year. I also give my son Archibald one gun,
The balance of my estate I wish my dear beloved wife to hold
in her hands for the support of my other children) of which
provision your Oratrix accepted, thinking it to the interest of her
children so to do, & thereby waived or lost her right to her ~~share~~
~~and distributive~~ share in said estate. Your Oratrix is inform-
ed and so she believes and charges that all the debts of the tes-
tator have been paid, the said Archibald satisfied & the estate
finally settled by the executor, which consumed all or very nearly
all the personal estate, not sufficient remaining, to purchase the
most common house hold and kitchen furniture, for the use of the
family, that the real estate consists of a small tract of land
situated near said Shivers mill, in the said County, bounded by the

Quack

14 m. 3 m. 8 m. 10 m. 12 m. 14 m. 16 m. 18 m. 20 m. 22 m. 24 m. 26 m. 28 m. 30 m. 32 m. 34 m. 36 m. 38 m. 40 m. 42 m. 44 m. 46 m. 48 m. 50 m. 52 m. 54 m. 56 m. 58 m. 60 m. 62 m. 64 m. 66 m. 68 m. 70 m. 72 m. 74 m. 76 m. 78 m. 80 m. 82 m. 84 m. 86 m. 88 m. 90 m. 92 m. 94 m. 96 m. 98 m. 100 m.

Quack's Letter

Friday 3rd Sept 1836

My dear Sir
I have the honor to acknowledge the receipt of your letter of the 28th inst. in relation to the above mentioned subject. I am sorry to hear that you are not satisfied with the result of the examination. I have, however, no objection to a re-examination, and I am willing to submit to it at any time and place you may think proper. I am, Sir, very respectfully,
Your obedient servant,
J. M. P.

John M. P.

Answer

I have the honor to acknowledge the receipt of your letter of the 28th inst. in relation to the above mentioned subject. I am sorry to hear that you are not satisfied with the result of the examination. I have, however, no objection to a re-examination, and I am willing to submit to it at any time and place you may think proper. I am, Sir, very respectfully,
Your obedient servant,
J. M. P.

The Answer of John M Shivers executor of the last will and testament of Nathan Duck decd to a Bill filed in the Circuit court for Isle of Wight County by Nancy Duck against him and others

This respondent now & at all times hereafter saving & reserving
se, for answer and se. Answer and says, that so far as he is concerned
he believes and Admits the material Allegations of said Bill to be
true, and as to the debts due by his testator so far as he knows
or believes he has paid them all, and finally settled his trans-
actions as his executor, & from his knowledge of the destitute
condition in which the widow & children were left, he thinks
and believes the ~~the~~ decree asked for by said Bill, the best that
can be made under the circumstances, that their condition
absolutely requires the relief there prayed for, and having answered
ed prays hence to be dismissed se.

John M Shivers

Sale of wight County to wit:

September 5, 1853 This day John M Shivers executor
as above named, personally appeared before me a justice of the
peace for the county aforesaid, and made oath that the facts
in his answer above contained, are true, so far as he knows
and believes, Given under my hand and seal this day &
year A.D. 1853

Wm Latham J.P.

Archibed Duck

Answers

Duck

Am. of Arch?
Duck.

Duck's Exor. Sal.

Sale d 5th Sept. 1882

The answer of Archibald Duck to a Bill filed in the Circuit Court for Isle of Wight County by Nancy Duck against him and others.

This respondent now and at all times hereafter saving and reserving &c, for answer &c, answers and says, that he believes the facts set forth in said Bill are true, and as far as the subject matter thereof concerns him, he is willing to abide by any decree which this honorable court shall think proper to make in the premises, that as to the sale of said land prayed for in said Bill, he believes it would be to the interest of all the parties interested that it should be made and hopes this honorable court will grant a decree authorizing the same, to be made and having answered prays hence &c

Archibald Duck

Isle of Wight County to wit:

This day Archibald Duck personally appeared before me a justice of the peace for the county aforesaid, and made oath that the facts in his answer above contained are true so far as he knows or believes. Given under my hand this 30th day Aug^r 1853.

M. Womble J P
3

Deeds

2 Infs.

3 annu

Deeds & for.

Sept. 5th 1832 filed.

Ans. 1832.

The Answer

The joint Answer of Martha A, and Lucia C Duck
infants under the age of twenty one years and children
of Nathan Duck. De'd. by N. P. Young their Guardian
ad litem to a Bill filed in the Circuit Court for
Isle of Wight County against them and others by
Manay Duck

by N. P. Young their Guardian ad litem

These respondents, now & at all times
se. saving & reserving &c; for an answer &c. & answer and
say that they are infants under the age of twenty one
years and consequently not capable of forming an opinion
as to the benefits which will accrue to them should the
prayer of said Bill be granted, they ~~they~~ therefore pray
~~that their interest in this matter~~
be taken under the protection & controul of this honorable
court, and leaving Answer pray times

N. P. Young gov.
ad litem

Fancy Duck

3 Shrub.
m: 3 in Chy.

Arch. Duck Val.

To Sept. recd,

Cir. Est. 1833.

Whiteheadsg.

Exempted by authority
a truck copy to John
M. Shubbs and Arch.
barn Duck
any 8th 1833

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Shelby* County, Greeting:

WE COMMAND YOU to summon *Archibald Duck, Martha A. and*
Julia Duck infants under the age of 21 years and
children of *Nathan Duck dec.* and *John M.*
Shover Esqr. of *Nathan Duck dec.*
to appear at the Rules at the Clerk's Office of the *Circuit* Court of *Shelby*
County, on the first Monday in *September* next, to answer a bill in Chancery
exhibited against them by *Nancy Duck* widow
of said *Nathan Duck dec.*

And have then there this writ.
Court, at the Courthouse, the
year of the Commonwealth.

Witness,

day of

N. P. Young
feet *August*

1853, and in the

Clerk of our said

N. P. Young
7th

Isle of Wight County to wit:

The above interrogatories on the next page written, are first submitted to me: and I hereby agree that the answers thereto may be read as evidence in the suit above mentioned. Given under my hand

A. P. Young, Jr.

ad litem

Nancy Duck
Against
Arch^d Duck & others } Inter in this cause in chancery to be proposed
-ed to ;
with the assent of the D^{ts}. & the guardian ad litem.

Inter. 1st Do you know any thing of the land or real estate belonging to the estate of Nathan Duck decd.? What is its value? What its annual value or rent? What is the condition of the premises? How would a sale thereof affect the parties? if to their interest why do you think so?

Inter. 2nd Do you or do you not, know any thing of the pecuniary situation of the widow & children? Would you or not suppose they were absolutely in need of pecuniary relief?

Answer to 1st Inter. I know the place well I think it is worth between \$125 & \$150 I think it would rent for \$15. a year, The premises in very bad order and going down yearly the land poor & unproductive, I think all parties would be benefited by a sale, I think so because the premises & buildings are in bad order and going down yearly also the parties are unable for want of funds to repair them

Ans. to Inter. 2nd I know the family well and also know they are very poor and needy & I should think they needed pecuniary relief.

Burwell Brock

Sole of wigat comity to wit:

This day Burwell Brock personally appeared before me a justice of the peace for the county aforesaid and made oath that the answer he has given to the above interrogatories are true so far as he knows or believes given under my hand & seal this 3 day of October 1853. Alfred G. Shivers J.P.

Isle of Wight County to wit:

The within interrogatories were first submitted to me and I consent that they and answers thereto may be read as evidence in this cause.

W. P. Gurney gov.
at test

Nancy Duke } Interrogatories In this cause in chancery, to
against } be propounded to
Arch^d Duck calls } with the agent of the Dft. & the guardians ad litem.

Inter. 1st Do you know any thing of the value of the land or real estate belonging to the estate of Nathan Duke dec^d? ^{and what the annual rent or value thereof} what is the value thereof? What the condition of the buildings & arable land? Do you believe the interest of his widow & children would be promoted by not by a sale thereof?

Inter. 2nd Do you know any thing of the condition (pecuniary condition) or not of his widow & children? Has or has not the widow and children need of help, or pecuniary relief

Answer to 1st Inter. I know the place well, It is in very bad order & the buildings very much out of repair. I think it worth in fee simple \$150. or for the last two year has rented for nothing. I think the interest of all parties to sell the land immediately for in a few years I think it could not be sold at all,

Answer to Inter. 2nd The widow and children are entirely dependant on their daily neighbours for their support & I know are very much in need of pecuniary relief.

John M. Shivers

Sole of wigat county to wit:

This day John M. Shivers —
personally appeared before me ^{in my court} as justice of the peace for the said county (in ~~the~~ said county) and made oath that the facts and answers to the above interrogatories as given by him are true so far as he knows or believes given under my hand & seal this 19th Oct 1853
Wm. H. Latimer JP

X
Scarc

not ready.

Ducks
^M ducks exor. & other ^{100/3} decree in chg.

This cause came on this day to be heard upon the Bill
Answers &c. filed, and was argued by counsel, on
consideration whereof the court doth adjudge order and
decree that John M Shivers be and he is hereby ap-
pointed a special Commissioner, to sell, on a credit
of ^{except so much as may be}
necessary to defray the expenses of suit and sale
which will be cash, at public auction, on the
^{after advertising the time and place of sale for}
premises, the land in the Bill mentioned situated
near said Shivers' mill in the county of
Isle of Wight, bounded by the lands of Thomas -
Goodson John M Shivers & others ~~there~~ containing
by estimation forty acres, That he take bond or
bonds with ample security for the purchase money
thereof and retain a lien thereon to secure the
the same, as the law in such cases requires;
That he make report to this ^{court} ~~court~~ of his transaction
&c, But before this decree shall be of any effect the
said commissioner is required to enter in to bond
with ample - security in the clerks office of this court
in the penalty of ^{dollars} con-
ditioned as the law in such cases requires