1856-003 Chancery Causes. Mary E. Whitley, widow / James F. Whitley & al vs James F Whitley's admx

Isle of Wight County

Pltff's Bill.

To the Worshipful County Court of Isle of Wight in Chancery sitting; humbly complaining sheweth to the court your complainants Mary E Whitley widow of James F Whitley deceased, Emily Josephine, Robert Daniel & Jas C Whitley, infants under twenty one years of age, children of the said Jas F Whitley, suing by their mother the said Mary E Whitley as their next friend that on or about the day of 1832 Jas F Whitley departed this life in the county aforesaid intestate & possessed of considerable personal estate - that Mary E Whitley duly qualified as the administratrix of the said Jas F Whitley & as such took into her possession his personal estate, consisting in part of the following negroes, to wit; Negro man Jack & Jacob, Negro woman Clarissa & Harriet & her two children Charlotte & Henrietta, Boys Aaron & Stephen & girls Amanda, Anna & Margaret - that the said James F Whitley left as his distributees at law his widow Mary E Whitley, & three infant children Emily Josephine, Robert Daniel & Jas C Whitley your complainants as aforesaid - that the said Mary E Whitley, widow as aforesaid is entitled to one third of said negroes for life & the others to the said infant children absolutely, they not being necessary for the payment of debts - that an equitable division of the negroes aforesaid cannot be made in kind & that to effect such a division a sale of a part thereof will be necessary - that two of said negroes Jack & Jacob are old & daily becoming of less value & are quite unmanageable & that in order to effect an equitable division among the parties aforesaid it would most promote the interest of all to sell the said Jack & Jacob - your complainant the said widow prays that out of the proceeds of sale, she may receive such portion thereof absolutely as the court may deem a fair equivalent for her life interest

therein – that owing to the infancy of some of the distributees aforesaid the said partition & sale cannot be made without the order of this worshipful court – that the condition of the estate does not require the longer retention of said negroes by the said administratrix who is willing & ready to deliver the said negroes to the said parties, but that on account of the infancy of said children, & the necessity of a sale of a part of them to effect an equitable division, she cannot do so without the order of this worshipful court – that the longer retention of said negroes by the said administratrix would be contrary to equity & good conscience & greatly to the injury of your complainants in the premises; in tender consideration whereof, & for as much as your complainants are without remedy at law & can be only relieved by the order of this worshipful court of Chancery where matters of this sort are cognizable, your complainants pray that the said ~~Mrs Virginia E. Whitley administratrix~~ of the said James F Whitley may be made a party defendant to this bill & be required to answer the same & that by a decree of this court commissioners may be appointed to divide the said negroes in the proceedings mentioned in the hands of said administratrix & that to effect an equitable division thereof the said Jack & Jacob may be sold, & the respective shares of your complainants in said negroes & proceeds of sale allotted to them & that a fair equivalent for the said widows life interest in said proceeds of sale may be paid to her out of the same & that such other & further relief may be granted as the nature of the case shall require & to your worships shall seem meet & as in duty bound your complainants will ever pray &c –

Hayden Sol –

To the Worshipful County Court of Isles of Wight in Chancery sitting
The Answer of Mary C Whitley Administratrix of
James F Whitley to the Bill of Complaints in said
Court exhibited by Mary C Whitley widow of said
James F Whitley, & Emily Josephine, Robert Daniel
& James C Whitley against her.

This defendant saving & reserving to herself all manner of benefit & advantage of exception to the errors & imperfections in the complainants bill contained for answer admits that she is administratrix of the personal estate of James F Whitley decd who died in the County of Isle of Wight on or about the 4th day of 1832, that she does not think that the condition of the assets requires her longer to hold the slaves in the complainants bill mentioned & she is willing to deliver them up for distribution under the order of this court if she can obtain refunding bonds as the law directs & she prays hence to be dismissed with her costs in this behalf most unreasonably expended &c—

Whitley (In Chancery
vs
Whitley's
admrs &c

Answer of Deft. Mary E.
Whitley.

Jacob sold for O. R. Rhodes $101.00

Jack sold for 26.00
to Miss Daniel

$127.00

cost of suit $13.00
6.35
Costs off 1.00 $22.35
acct.

$104.65

101.00
22.00
5 | 78.65
Rhodes bond to widow | 15.73
do. do to chdn. | 62.92

5 | 26.00
Daniels bond to widow | 5.20
do. do to chdn. | 20.80

Whitby to Rendt
2 Memo. for
re. 2 sent.
Whitby to

Charles $ 100.00
Dickson 600.00
Harriet Chester Charlotte 150.00
Clara Hamilton 200.00
Stephen 500.00
Alexander 300.00
Margaret 250.00
Mary 450.00

$3400

Alex & Wm Harriet Walter Charlotte $650
Stephen 500
1150.00
2100.33
1667

650
500
1150
33
11

Mary E. Whitley widow of Jas. F. Whitley dec'd. Emily J, Robt D. and Jas F. Whitley infants &c. Pltfs.

against

Mary E. Whitley admx. of Jas. F. Whitley dec'd. Deft.

In Chy.

The undersigned Commissioners appointed by decree of the County Court of Isle of Wight pronounced in this cause on the 6th. day of December 1852, under the following efpts. viz: Having valued the slaves Clarissa, Damon, Harriett & two children, Charlotte & Henrietta, Stephen, Amanda, Margaret and Amy, in the said decree mentioned, at the sum of $3400. one third of which being $1133.33

We have allotted & set apart to Mary E. Whitley (Widow) Harriett & at the value of $650.00

and boy Stephen 500.00

To be held by her as her dower. $1150.00

From which deduct the one third above 1133.33

and there remains the sum of $16.67 to be paid by the said Mary E. Whitley to the infant pltfs: Emily J, Robt D, and Jas F. Whitley.

Given under our hands this 7th. day of Dec. 1852.

N. P. Young Comr.

Miles Edwards

Chs. Chapman

Whitley to Sp. Jo
vs. 3 others
Whitley's adm.t

Mary E. Whitley widow of James F. Whitley dec'd; Emily C, Robt D. and James H Whitley infants of said J. F. Whitley by their next friend Mary E. Whitley . . Pltffs.

against

In Chancery.

Mary E. Whitley adm't. of James F. Whitley Deft.

Pursuant to a decree of the County Court of Isle of Wight pronounced in this cause on the 6th. day of December 1852 the, undersigned a commissioner therein appointed for the purpose, after advertising according to the direction of said decree, did on the 3d day of January, at the Court house of said County (being Court day) expose to public sale at auction, on a credit of nine months, the slaves Jack and Jacob in the bill & decree named, at which sale Mills Daniel became the purchaser of Jack for the sum of $26.00

for which sum I have taken his bond with security for (one fifth being the widows portion) $5.20

and for four fifths payable to the infts. 20.80

Making for the sale of Jack . . $26.00

Robt R. Sturdy became the purchaser of the slave Jacob for the sum of $101:00

from which sum I have deducted the costs of suit & sale, (of both negro) Court. $22:35

Have taken his bond with Geo. N. Allmon security, payable to the widow for 1/5. 15.73

And for the other 4/5 payable to the infants, with like security, 63.92

Making for sale of Jacob $101:00

I have (paid) the bonds due to the widow to her & retained the bonds due to the infants, (in my hands as their guardian) ~~Executor~~.

Respectfully submitted.

July 1853.

W. F. Carney Comr.

Rec. of N.P. Young com. the bonds of Pruitt and Daniel
mentioned in the foregoing report. July 1853.

Henry E Whitley

Whitley
as
Whitley's Admtrx

On motion of the Plaintiffs by consent of parties this cause, this day came on to be heard on the Bill & Answers & general replication thereto, was argued by counsel, on consideration whereof the court doth adjudge order & decree that Miles Edwards, Allen Edwards, Charles Chapman & N P Young or any three of them, who are hereby appointed commissioners for that purpose, do divide the negroes in the complainants bill mentioned, to wit; Clarissa, Harriet & her two children Charlotte & Henrietta, Dawson, Stephen, Amanda, Anna Margaret, & allot to Mary E Whitley widow of James F Whitley one full equal third part thereof to be held by the said Mary E Whitley for her life, and to Emily Josephine, Robert Daniel, & James C Whitley the remaining two thirds thereof, to be held by them absolutely in such division the said commissioners are to have regard to quantity & quality & make report thereof to court for further proceedings herein & the court doth further adjudge order & decree that N P Young — who is hereby appointed special commissioner for that purpose do proceed to sell at public auction at the court house of said county on some court day after due notice of the time & place of sale the negroes Jacob & Jack in the proceedings mentioned on a credit of nine months except so much for cash as will pay the expenses of this decree & said sale & for the portion sold on credit take bond & bonds with good personal security for one fifth of the amount payable to the said Mary E Whitley & pay the same to her & for the balance payable to the infant children & deliver the same to them upon the payment of this decree, they to give bonds for them & shall file

lawful guardian if any & if not to the Clerk
to court & make report of his proceedings herein to the
court for further proceedings —
cute to the said administrator Bonds with
good security in a penalty equal to double
the value of the property accounted, & to be re-
ceived under this decree, conditioned to defend
their prosecution of any debt or demand that
may hereafter arise against the estate of the
said James F Whitley dec'd together with the
costs attending the same — But the effect
of this decree shall be suspended until the
said R P Young — shall execute in the
Clerks office of this court a bond with good
& sufficient security payable to the com-
monwealth of Virginia in a penalty of $. 150.00
conditioned for the faithful performance of
this decree —

Whitley &c.
vs.
Young's adm't &c.
Decree.

Decd. Oct. 1852. Bill &
Exhibits & Depositions filed.

Jany. 1. 1853. Copies of proceedings
& papers.

Opinion 1853 Final
decree.

In the County Court of Isle of Wight County.
December 6th: 1852.

Mary E. Whitley widow of James F. Whitley dec'd; Emily Josephine, Robert Daniel, and James E. Whitley the last three infant children of James F. Whitley dec'd: by Mary E. Whitley their mother & next friend. Plaintiffs

against

Mary E. Whitley administratrix of James F. Whitley dec'd. Defendant

In Chancery.

On motion of the plaintiffs & by consent of parties this cause, this day came on to be heard on the Bill & answer & general replication thereto & was argued by Counsel; On consideration whereof the Court doth adjudge, order & decree that Miles Edwards, Allen Edwards, Charles Chapman & R. P. Young, or any three of them, who are hereby appointed Commissioners for that purpose do divide the negroes in the Complainants Bill mentioned, to wit: Clarissa, Harriet & her two children Charlotte & Henrietta, Dawson, Stephen, Amanda, Anna & Margaret, and allot to Mary E. Whitley one full equal third part thereof; to be held by the said Mary E. Whitley for her life - and to Emily Josephine, Robert Daniel and James E. Whitley the remaining two thirds thereof, to be held by them absolutely. In such division the said Commissioners are to have regard to quantity & quality & make report thereof to Court for further proceedings herein. And the Court doth further adjudge, order & decree that R. P. Young who is hereby appointed a Special Commissioner for that purpose, do proceed to sell at public auction, at the Courthouse of said County on some Court day, after having given twenty days notice of the time & place of sale, the negroes Jacob & Jack in the proceedings mentioned, on a credit of nine months except so much for cash as will pay the expenses of this decree & said sale; and for the

portion sold on credit, Take bond & bond with good personal security for one fifth of the amount payable to Mrs. Mary E. Whitley when the same to her - and for the balance payable to the said infant Children and deliver the same to their lawful guardian if any, & if not return the same to Court & make report of this proceedings herein to the Court for further proceedings. But before the said parties shall have the benefit of this decree, they or some one for them shall execute to the said administratory Bond with good security in a penalty equal to double the value of the property ordered to be received under this decree, conditioned to refund their proportion of any debt or demand that may hereafter arise against the estate of the said James F. Whitley dec'd. together with the costs attending the same. But the effect of this decree shall be suspended until the said N. P. Young shall execute in the Clerks office of this Court a bond with good & sufficient security payable to the Commonwealth of Virginia in a penalty of $150.00 Conditioned for the faithful performance of this decree.

A Copy.

Teste

N. P. Young C.C.

Whitley's
vs
Whitley's admr &c.

Decree

Whitley &c -
vs -

Whitley's adms

Rough draft
Aft Term 1854
To be entered -

Dan'l W Voorhees

Whitleys
&
Whitleys ano

On motion of the Pltffs by consent of parties
this this day came on to be again heard on the pa=
pers formerly read & the report of Commissioners H.P.
Young, Miles Edwards & Charles Chapman on divis=
ion of negroes & the report of H.P. Young Commis=
sioner of sale, made pursuant to a decree heretofore
of Dec 6th 1832, & was argued by counsel, on consider=
ation whereof the court confirming said reports
to which no exceptions were filed, doth adjudge
& decree that the division of negroes & of the proceeds
of the negroes sold, be held firm & binding among the
parties to this suit & that the parties respectively hold
the same according to the division thereof by the re=
ports aforesaid & the court doth further adjudge that
the parties to this suit contribute mutually to the
costs of the same —

Whitley's Addendt.

" ½ Cons. Bonds

Whitley's acct.

KNOW ALL MEN BY THESE PRESENTS, That we N. J. Conway and

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA, in the sum of One Hundred & fifty dollars ——— to the payment whereof, well and truly to be made to the said COMMONWEALTH OF VIRGINIA, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 3d day of January. one thousand eight hundred and fifty three

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said N. J. Conway, who is appointed a Commissioner in the suit of Mary E. Whitley widow of Saml. F. Whitley dec'd. against Mary E. Whitley admx. of said Saml. F. Whitley, to sell certain negroes named in the decree of Dec. Term 1852.

shall faithfully discharge the duties of his said office, then this obligation is to be void, or else to remain in full force.

Signed, sealed, acknowledged and delivered in the presence of

N. J. Conway SEAL.

SEAL.

SEAL.

KNOW ALL MEN BY THESE PRESENTS, *That we,* Mary E Whitley and N. P. (Young) Mary E. Whitly adm.x of Jno. F. Whitly are held and firmly bound unto ~~the Commonwealth of Virginia~~ " in the sum of Three Thousand dollars to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. As witness our Hands and Seals, this 2d day of February, in the year of our Lord, one thousand eight hundred and fifty one

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas by a Decree of the ~~Circuit~~ County Court of Isle of Wight county pronounced on the 6th day of December 1852 in a cause depending in the said Court in which Mary E. Whitly widow of Jno. F. Whitly dec.d complainant, and Mary E. Whitly defendant it was decreed and ordered that Miley Edwards, Allen Edwards, Charles Chapman & N. P. Young or any three plaintiff, and defendant, the ~~above bound~~ of them should decide ~~was appointed a special Commissioner to~~ the negroes in the bill mentioned viz; Clarissa, Hamlet their two children Charlotte Hamlet Dorcas, Neptune, Amanda, Anne & Margaret & allot to Mary E. Whitly as Dower in the negroes of the said Jno. F. Whitly dec.d to the exclusion of said Jno. F. Whitly's two children Emily J. Robt D. and Jno. F. Whitly the other two thirds. But before the said parties should have the benefit of said decree they or some one for them were required to enter into bond & condition to refund the proportion of any debt or damage that should thereafter come against the said Jno. F. Whitly — Now if the said Mary E. Whitly and N. P. Young shall well & truly pay and satisfy ~~all such~~ debts or damages the portion or part of any debt or damages against the whole said Estate that the said Mary E. Whitly in right of said Jno. F. Whitly is liable for in said decree, Emily J. Robt. D. & Jno. F. Whitly in right of said children Now if the above bound shall faithfully discharge his duties as Commissioner under ~~the said Decree~~, then the above Obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed, and delivered in the presence of

Mary E Whitley L.S.

N P Young L.S.

L.S.

Refunding Bond