1860-020 Chancery Causes : Ishmael Johnson & ux vs William A. Whitehead, by & c

Isle of Wight County

othee SURNames: Hall
Powell

Thuson & wife &c
vs
Whitehead } Chancery

Septr. 7th. 1857
Bill &c filed & entd.
decree.

Octo. 5th 1857.
Decree for Sale &c.

Decr. 7. 1857 Rept. of
Sale & cond.

Sept. 8th. 1858. Decree
to collect Bond &c

partition made of the said lands according to their respective rights aforesaid if partition of the same can be conveniently made without injury to the interest of the said parties & that if such partition cannot be made without injury to the interest of said parties that the same may be sold & the proceeds divided among the said parties according to their respective interests - in tender consideration thereof & for as much as your complainants are without remedy at law & can only be relieved by the aid of this Worshipful Court of Chancery where matters of this sort are cognizable

To the end your complainants pray that the said William A. Whitehead infant as aforesaid by some one appointed as guardian ad litem to defend him in this suit may be made party defendant to this bill & the same answer the same & that by a decree of this worshipful court commissioners may be appointed to make partition of said land among said parties if such partition can be conveniently had without injury to their interest if not that a sale of said land may be decreed & the proceeds of said divided among said parties according to their respective interest & that such other & further relief may be granted as to the Court may seem meet & consistent the nature of the case & your complainants will ever pray &c

Hay & Crockett

Solicitors for Complainants

Johnson Stark & Clark Atty
for
Whitehead

To the Worshipful County Court of Isle of Wight
in Chancery Sitting: Humbly complaining
sheweth to the Court your Complainant Edmund
Johnson that the said Nancy by the said Edmund Johnson her husband
Johnson & Nancy his wife late Whitehead
on or about the day of 185
one Arthur Whitehead departed this life in-
testate in the County aforesaid seized & possessed
in fee-simple of a tract of land containing
324 acres lying in the County aforesaid ad-
jacent to the Mill Pond of Grave Neck
& the lands of John Marshall & James Wall's
heirs that the said intestate left surviving
him his widow & them his at said visit
William A. Whitehead infant grandson of the in-
testate being a Child of James Whitehead son
of said intestate who predeceased his father
Nancy Whitehead a daughter of said intestate
who since her father's death has intermarried
with Edmund Johnson & Eliza wife of
John Whitehead that said John Wife con-
veyed their interest in said land to Dempsey
Whitehead who conveyed to John Whitehead
who conveyed to Edmund Johnson your
Complainant as aforesaid the former Deeds
of which conveyances respectively made as Exhibits
of said land was assigned to the widow of said
Whitehead who has departed this life during the
present year that subject to the interest of
the heir at law of said widow who is entitled
in right of his wife to hold the in said land
the balance of the present year on paying
a reasonable rent to the reversioner therefor
the said land belongs absolutely in fee simple
to the aforesaid Edmund Johnson & Nancy
his wife & the said William A. Whitehead
that the said complainant is informed & be-
lieves that the said parties are entitled to have

Johnson v. Whitehead & Others in Chancery

Defendants answer.

To the worshipful County Court of Isle of Wight in Chancery Sitting

The answer of William A. Whitehead infant orphan of James Whitehead dec.d by Ch.s Young his guardian ad litem to the bill of Complaint in said Court exhibited by Edward Johnson & Nancy his wife & others. This defendant answering says he is an infant under twenty one years of age & that he knows nothing of the allegations of said bill of complaint & submits his interest in the premises & the protection of this worshipful Court of Chancery & having answered prays hence to be dismissed with his costs in this behalf expended

Signed A. S. Young Jr.
ad litem

The undersigned Commissioners pursuant to the within decree after having been first duly sworn according to law proceeded on the 1st day of October September 1857 to examine the within tract of land for the purpose of dividing the same according to the direction of the within decree. But we are of opinion that the whole tract is not worth in fee simple more than $ 800 that by dividing it into three shares the same would be greatly injured in value that the interest of all parties would be promoted by sale of the whole tract

Josiah Pilcher
Grimes, Millett
Harwell T. Powell
mark

Comrs.

Pursuant to the annexed decree the undersigned Commissioner therein named proceeded to collect the Bond of John H Beaton in said decree named & on the 13th of September 1838, collected from him the sum of $528.63, being the amount in full due on said bond to date. That further in pursuance of said decree he paid $176.21, one third thereof, to Ishmael Johnson, in his own right, $176.21, one third thereof to the same in right of his wife, & the remaining third $176.21, the undersigned has retained as the legal guardian of Wm A. Whitehead

Paid Ishmael Johnson in his own right -	$176.21
do do in right of his wife -	176.21
do Thomas Hall Gdn Wm A Whitehead -	176.21
	$528.63

The receipt of the said Ishmael Johnson for the payments aforesaid is hereunto annexed. That on the payment of the bond aforesaid by the said John H Beaton, the undersigned executed & delivered to him a deed with special warranty for the land in said decree mentioned -

All of which is respectfully submitted

Signed T Hall

October 4th 1858

Recd from Thomas Hall Commissioner appointed to sell the lands of Arthur Middleton Dec'd one hundred Seventy six dollars twenty one cents in my rights of the nett proceeds of the sales of said land and one hundred Seventy six dollars twenty one cent the same for my ~~wife's~~ right ~~and my wife's right of the nett~~ proceeds of the same

Wm T. Beacon Edmund Johnson

Edmund Bates
per Mary Ann
Oliver

Johnson Wife
vs
Johnson
Bill

Commissioners Office
Court of Common Pleas
Charleston

Defendants Exhibit
No 9.
Filed

At a County Court held for Isle of Wight County
On the 6th. day of September 1858.

Ishmael Johnson & Wife Plffs

against } In Chancery.

Whitehead & als. Defts.

This Cause This day Came on to be again heard on the papers formerly read, & on the report of Thomas Hall Commissioner of sale, made pursuant to a decree herein of October term 1857. & was argued by Counsel; on Consideration whereof, the Court confirming said report, to which no exceptions were filed; doth adjudge order and decree that the Clerk of this court deliver to Thos. Hall on his filing his receipt therefor, the Bond returned by him with his report aforesaid, which bond the said Thomas Hall is hereby authorized and required to collect, and out of the proceeds thereof, first pay the unpaid costs of this suit & out of the balance thereof, pay one third to the legal guardian of the infant William A. Whitehead, & one third to Ishmael Johnson, & the remaining third to Ishmael Johnson & Mary his wife, taking their receipts therefor; And the Court doth further adjudge order and decree that on the payment of the Bond aforesaid the said Thomas Hall shall execute and deliver a good and sufficient deed in fee simple with Special Warranty to John H. Beaton for the land in the proceeding mentioned, Containing of a tract of 324. acres. lying adjacent to the Millpond of Graves Nibbell, & the land of John Marshall & of the heirs of James Hall, & make report to court of his proceedings under this decree. But the effect of this decree shall be suspended until the said Thos. Hall shall execute & deliver in the clerks office office of this court a bond with sufficient security in a penalty of $1000.00 payable to the Commonwealth of Virginia Conditioned for the faithful

Shmael Johnson
vs
Wm A Whitehead

Commissioners Halls
Re. part of sale —

Sept. 28. 1858. Rec'd of N.P. Young
Clerk of Court. the Bond of
John H. Beaton for $503.00
~~returned~~ returned by me as
com'r. Filed in this report.
C J Hale

3c Ent

Pursuant to the annexed decree the undersigned after having complied with the requirements of said decree proceeded to sell the land therein mentioned at public auction on the 7th of Nov 1837 — when John H Beaton became the purchaser thereof for the sum of Five Hundred & Fifty Dollars of which amount I gave commissioner ~~received~~ Forty Seven Dollars in Cash to pay the cats of this suit & took the Bond of said purchaser with Wm. T Beaton & C. H. C. Bailey as securities for $503.00 — with interest from the date aforesaid payable on the 8th day of May 1838 —

Amount of Sale of Land —		$ 550.00
Amt Rec'd in Cash —	47.00	
" of Bond —	503.00 —	$ 550.00
which Bond is herewith returned ——		
Amt of Cats paid — Clks fees —	5.50	
Attys do —	15.00	
Retained to pay for sundry Stamps	5.00 —	
Commissions —	20.00 —	$ 45.50
Cash in hands of Commissioner —		1.50
		$ 47.00

All of which is respectfully submitted —
Nov 17th 1837 —

Signed — J Hall

by a sale of the land in such case they are required to report the facts upon which their opinion is based to the court & also what in their opinion is the pecuniary value of the said tract of land & either in case they are required to report the proceedings under the order of the court.

Amos Kirkpatrick
et
Whitehead } Chancery

Brought to issue Sept 1857
Term
To be called
Sept. Term

Johnson & Wife vs Whitehead

This day came the plaintiffs & filed their bill & on their motion C. P. Young his assigned guardian ad litem to the infant defendant William A. Whitehead to defend his interest in the suit & there upon the said guardian ad. litem files the answer of the said infant to the bill of the plaintiffs which answer the plaintiffs replies generally & the cause coming on to be heard by consent upon the bill the said answer general exhibits & was argued by counsel on consideration whereof the Court doth adjudge and decree that David P. Gay Grave Tibbet Hartwell F. Powell & George Eley who are hereby appointed commissioners for that purpose any three of whom may act having been first duly sworn do proceed to lay off & divide the real estate in these proceedings mentioned & described Arthur Whitehead died seized in the county of Ash of Eight containing by estimation 324 acres lying adjacent to the Mill Pond of Grave Tibbet & the lands of John Merchant & the heirs of James Hall into three equal parts having regard to quality & quantity & assign one of the said parts to Edward Johnson in his own right as purchaser of John Whitehead one of said three parts to Nancy Johnson wife of Edward Johnson & one of said three parts to William A Whitehead. But if the said Commissioners should find it impracticable to divide said lands as aforesaid or should be of opinion that the interest of said infant of said parties would be more benefited

Oct 1st 1857 Personally appeared before me
Levin Dinck a justice of the Peace for said
County D. P. Foy, Hartwell T Powell
and Grames Niblett and qualified to
execute the orders of the within to the
best of their skill and judgment given
under my hand as above Levin Dinck J.P.

Johnson & Hughes
Copy Bonds
28. 36
Whitehead

At a County Court held for the County of Isle of Wight On the 7th day of September 1857.

Ishmael Johnson Wife &als. Plfs

Against

Wm A. Whitehead &als. Defts

In Chancery

This day Came the plaintiffs & filed their Bill, & On their Motion N. P. Young is assigned guardian ad litem to the infant defendants Wm A. Whitehead to defend his interest in this suit; Whereupon the said guardian ad litem filed the Answer of the said infant to the Bill of the plaintiffs — to which Answer the plaintiffs replied generally — And the Cause Coming on to be heard by Consent — upon the bill the said Answer general replication thereto & exhibits &c was argued by Counsel On Consideration whereof the Court doth adjudge order & decree that Micah P. Gay — Graves Niblett — Hardwell F. Powell and George Eley who are hereby appointed Commissioners for that purpose — any three of whome may act — having been first duly sworn — do proceed to lay off and divide the real estate in these proceedings mentioned — of which Arthur Whitehead died seize in the County of Isle of wight — Containing by estimation 324 acres — lying adjacent to the Mill pond of Graves Niblett & the lands of John Marshall & the Heirs of James Hall — into three Equal parts — having regard to quantity & quality & upon one of the said parts to Ishmael Johnson in his own right as purchaser of John Whitehead — One of said three parts to Nancy Johnson wife of said Ishmael Johnson, and One of said three parts to Wm A. Whitehead. But if the Said Commissioners Should find it impracticable to divide Said land as aforesaid — or Should be of opinion that the interest of said parties would be more promoted by a sale of the same, in Such Case — they are required to report to report the facts upon which their Opinion is based to the Court — And also — what in their opinion is the fee simple value of the said tract of Land — & in either Case they are required to report their proceedings under this order to the Court.

A Copy

Teste. F. C. Latimer DC

Johnson & wife &c
vs
Whitehead
3 Chancery
2

Rough Record
Oct Term 1837
To be entered —

Geo. W. Carroll

Johnson & Wife vs Whitehead

This cause came on this day to be again heard upon the papers formerly read & upon the report of Isaac P Gay - Graves Tibbitt & Hartwell & Powell -

Upon the Commissioners under the decree herein of September Term 1859 to which report there is no exception & was argued by Counsel in consideration whereof the Court confirming said report doth adjudge & decree that Thomas Hall who is hereby appointed a special Commissioner for that purpose do proceed to sell at public auction ~~the land in the County~~ on the premises ~~some~~ Court day after having given at least twenty days notice of time place & terms of sale by advertisement at the Court house door in this County on some Court day previous to the day of sale & at other public places in said County the land in these proceedings named & bound (subject to the right of possession for the present year of Hartwell F Powell of the dower estate of his late wife who was the widow of Arthur Whitehead dec'd) on a credit of six months with interest from day of sale except so much for cash as will pay inclusive of the fee of the costs of this suit & of said sale & for the parties Fifteen Dollars to C B Hayden for his services in this cause sold on credit the said Commissioner shall take the bond payable to himself & Commissioner with sufficient security which bond he shall return to the Court with his report of his proceedings under this decree.

But the effect of this decree shall be suspended until the said Commissioner shall execute & deliver in the Clerks Office of this Court a bond with sufficient security payable to the Commonwealth of Virginia in a penalty of ~~$1044.00~~ 1600.00 conditioned for the faithful performance of this decree.

Commonwealth of Virginia, in a penalty of
$1000 Condition for the faithful performance
of this decree.

Test [illegible] P. C. Jaffrey DC

Attys fee $10.00
Costs 5.50
Cost $15.50

Atty fee paid by Com. T. Hall
P. P. Gormley cd
Received My Atty's fee in within suit
I B. Hayden

Chancery No. 12.

Henry Deeds
vs.
Wm A Archibald

At a County Court held for Isle of Wight County on
the 5th day of October 1857.

Thomas Johnson Exrs. Plff.

against

Wm A. Whitehead Defts.

This cause came on this day to be again heard upon the papers formerly read, & upon the report of Wm F. Gay, Moses Willis & Waddell H. Powell, three of the Commissioners under the decree of September term 1857, to which report there is no exception, & was argued by Counsel, On Consideration whereof, the Court confirming said report doth adjudge order & decree that Thomas Hall who is hereby appointed a Special Commissioner for that purpose, do proceed to sell at public auction on the premises, after having given at least twenty days Notice of the time & place of Sale by advertisement at the Court house door in this County On some Court day previous to the day of Sale, and at other public places in said County, the lands in the proceedings Mentioned (subject to the right of peperpion for the present year of Waddell H. Powell of the dower estate of his late wife - who was the widow of Arthur Whitehead dec'd) On a credit of six months, with interest from day of Sale, except so much for Cash as will pay the Costs of this suit & of said Sale, including a fee of fifteen dollars to R. Baynes for his services in this cause, for the portion sold on Credit, the said Commissioner shall take the bond payable to himself as Commissioner, with Sufficient Security, which bond he shall return to the Court with his report of his proceedings under this decree, But the effect of this decree shall be suspended until untile the said Commissioner shall execute and deliver in the Clerks office of this Court a bond with Sufficient Security, payable to the

Conditioned for the faithful performance of the decree —

Johnson & wife
vs
Whitehead
In Chancery

Rough Decree
Sept Term 1838

To be entered —
Jno. W. Carroll

Filed

Johnson's wife
is
Whitehead -

This cause this day came on to be again heard on the papers formerly read, & on the report of Thomas Hall, commissioner of sale, made pursuant to a decree herein of October Term 1837, & was argued by counsel, on consideration whereof the court confirming said report, to which no exceptions were filed, doth adjudge order & decree that the Clerk of this court deliver to Thomas Hall on his filing his receipt therefor the Bond returned by him with his report aforesaid, which bond the said Thomas Hall is hereby authorized required to collect, out of the proceeds thereof first pay the unpaid costs of this suit - & out of the balance thereof pay one third to the ~~defendant's client~~ legal guardian of the infant defendant William A White-head & ~~the remaining two thirds thereof to~~ one third thereof to Ishmael Johnson & the remaining third to Ishmael Johnson & Nancy ~~Johnson~~ his wife, taking their receipts therefor - And the court doth further adjudge order & decree that on the payment of the Bond aforesaid the said Thomas Hall, shall ~~make~~ execute & deliver a good & sufficient deed in fee simple with special warranty to John H Beaton for the land in these proceedings mentioned, consisting of a tract of 324 acres lying adjacent to the ~~land~~ Mill Pond of James Nibblitt & the lands of John Marshall & of the heirs of James Hall - & make report to court of his proceedings under this decree - But the effect of this decree shall be suspended until the said Thomas Hall shall execute & deliver in the Clerks office of this court a bond with sufficient security in a penalty of $1005.00 - payable to the Commonwealth of Virginia

Johnson
Supra
Johnson
Sals — } Jr
Chancy

Final decree

Rough Memo
Feby Term 1860
To be entered —
W. H. Casey

Ent?

Johnson wife
vs
Johnson & als -

This cause this day came on to be again heard on the papers formerly read & on the report of T Hall commissioner, made pursuant to a decree herein of September term 1838 - Was argued by counsel, on consideration whereof, the court doth adjudge order & decree that said report, to which no exceptions were filed be confirmed & that the parties to this suit contribute mutually to the costs of the same -

Johnson & wife

to } Comrs Bond

Whitehead

Executed 8th Octo.
1857 & filed

KNOW ALL MEN BY THESE PRESENTS, *That we,* Thomas Hall and N. P. Young

are held and firmly bound unto the Commonwealth of Virginia in the sum of Seaven hundred 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 8th day of October, in the year of our Lord, one thousand eight hundred and fifty Seven.

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 5th day of October 1857. in a cause depending in the said Court in which Ishmael Johnson & wife &c

. . . . . plaintiff, and

William A. Whitehead . . . . . defendant, the above bound Thomas Hall . . . . was appointed a special Commissioner to Sell at public auction on the premises after giving twenty days notice of the time & place of sale, at the Court house door & other places on Court day, on a credit of six months, with interest from the day of sale, except so much as will pay the costs of suit & sale, which shall be in cash, the land formerly owned by Arthur Whitehead dec'd. in the proceedings mentioned (subject to the right of Rockhill & Powell in right of his wife) and who was the widow of Arthur Whitehead dec'd. & he to take bond for the credit portion payable to the Court with ample security & report his proceedings with the bonds to Court.

Now if the above bound Thomas Hall 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

F. C. Latimer DC

T. Hall L. S.

N. P. Young L. S.

L. S.

Johnson Scott

vs. Trespass & Case
under the act of
4. Sept. 1838

Whitehead Sals

Sept. 28. 1838 filed

Know all Men by these Presents, That we Thomas Hall

& N. P. Young

are held and firmly bound unto the Commonwealth of Virginia in the sum of One

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 ____ day of September in the year of our Lord, one thousand eight hundred and Fifty Eight-

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 September in a cause depending in the said Court, in which Ishmael Johnson and wife are

Plaintiff, and

William A. Whitehead and others are Defendant, the above bound Thomas Hall was appointed a special Commissioner to collect the bonds returned by him in this cause under a former order of said court, and out of the proceeds thereof first pay the unpaid costs of this suit, and of the said proceeds pay one third to the Legal Guardian of Wm A Whitehead, and one third to Ishmael Johnson, and the remaining third to Ishmael Johnson & wife Mary, and to make a good and sufficient deed with Special Warranty to John H Bolton the purchaser of the land in these proceedings mentioned

Now, if the above bound Thomas Hall 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

T Hall SEAL.

N. P. Young SEAL.

SEAL.