

1920-022

Chancery Causes: Mary V. Whitley vs Grace S. Whitley val, by v c

340 1/2

Isle of Wight County

JOHN T. WATKINS, PLAINTIFF,
VS. IN CHANCERY

GEORGE D. WATKINS, ET AL.,
DEFENDENTS.

BILL.

ERNEST H. WILLIAMS
Attorney-at-Law
SMITHFIELD, VIRGINIA

further and general relief may be afforded your Complainant
as in the premises may be just and right and to equity shall
seem meet.

And your Complainant will ever pray, etc,

Mary V. Whitney

E. H. Williams pg.

That at the time of the marriage aforesaid the said Albert Whitley did not own any real estate or chattel property of any kind;

That from the time of the aforesaid marriage until the time of his death the said Albert Whitley, deceased, took complete charge of your Complainant's farm and stock and carried on the business of farming on the said farm as the agent of your Complainant;

That the proceeds from the sale of the products grown on the said farm and sold from time to time were deposited in the Bank of Smithfield, in the name of Albert Whitley, deceased;

That in the fall of 1919 your Complainant sold the standing timber on the farm aforesaid for the sum of TWELVE HUNDRED DOLLARS; ONE THOUSAND AND TWENTY-FIVE DOLLARS of the said sum being deposited in the Bank of Smithfield by the said Albert Whitley, deceased, to his credit;

That there is now in the Bank of Smithfield deposited to the credit of the said Albert Whitley, deceased, the sum of \$1381.85, all of which said sum was obtained as above stated and held either as agent or trustee for your Complainant;

In tender consideration whereof and for as much as your Complainant is remediless in the premises, save in a Court of Equity; she prays that the said Grace L. Whitley, James A. Whitley, Eunice E. Whitley, and Agnes B. Whitley, all infants as aforesaid, may be made parties defendants to this bill and required to answer the same; that George F. Whitley, a competent and discreet Attorney at Law, may be appointed guardian ad litem for the said infants; that the funds deposited in the Bank of Smithfield as aforesaid may be declared to be held in trust for your Complainant and a decree entered authorizing your said Complainant to check on the said fund; that all such proper process issue, and all proper orders, inquiries, and decrees be made; and that all such other

IN THE CIRCUIT COURT FOR THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

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MARY V. WHITLEY, ...Plaintiff,

vs.

GRACE L. WHITLEY, JAMES A. WHITLEY, EUNICE E. WHITLEY, AND AGNES
B. WHITLEY, ALL INFANTS, ...Defendants.

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TO THE HONORABLE B. D. WHITE, JUDGE OF THE SAID COURT:

Humbly complaining, your Complainant, Mary V. Whitley, shew-
eth the Court the following case:

That in the year of 1901 your Complainant was married in the
County of Isle of Wight, Virginia, to one Albert Whitley, who de-
parteth this life intestate on _____ day of February, 1920;
leaving surviving him his wife, namely, your Complainant, and the
following children: Grace L. Whitley, age sixteen; James A. Whit-
ley, age twelve; Eunice E. Whitley, age nine; and Agnes B. Whit-
age
ley, six; as his only heirs and distributees at law:

That at the time of the marriage of your Complainant to the
said Albert Whitley she was seized in fee simple of a tract of
land in the County of Isle of Wight, Virginia, containing one
hundred and thirty acres, more or less, and bounded by the lands
of Vernon Wilson, William Presson, et als;

That at the time of the said marriage your Complainant own-
ed sufficient teams, stock, farming implements, and provender
to carry on the business of farming on the said farm;

MARY V. WHITLEY, PLAINTIFF,
VS(IN CHANCERY,
GRACE L. WHITLEY, ET ALB,
DEFENDANTS,

ANSWER OF INFANT DEFENDANTS.

ERNEST H. WILLIAMS
Attorney-at-Law
SMITHFIELD, VIRGINIA

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

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MARY V. WHITLEY,.....Plaintiff,

vs (In Chancery,

GRACE L. WHITLEY, JAMES A. WHITLEY, EUNICE E. WHITLEY, AND
AGNES B. WHITLEY, ALL INFANTS,.....Defendants.

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The joint and seperate answer of Grace L. Whitley, James A. Whitley, Eunice E. Whitley, and Agnes B. Whitley, infants under the age of twenty-one years, by George F. Whitley, their guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against them in the Circuit Court for the County of Isle of Wight, by Mary V. Whitley.

These respondents, reserving to themselves the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as they are advised that it is material they should answer, by their said guardian ad litem, answer and say:

That they are infants of tender years, and by reason of their infancy are incapable of understanding, or of taking care of rights and interests. They therefore, by their said guardian ad litem, commend themselves and their rights and interests to the protection of the Court and prays that no decree may be pronounced which will tend to their prejudice.

And having fully answered, the said respondents pray to be hence dismissed with their reasonable costs in this behalf, and they will ever pray, etc.

Geo F Whitley, guardian ad litem for Grace L. Whitley, James A. Whitley, Eunice E. Whitley, and Agnes B. Whitley.

*Grace L. Whitley, James A. Whitley Eunice E. Whitley
and Agnes B. Whitley, by Geo F Whitley Guardian
ad litem*

TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,
VIRGINIA.

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MARY V. WHITLY^e,.....Plaintiff,

vs(.In Chancery,

GRACE L. WHITLY^e, JAMES A. WHITLY^e, EUNICE E. WHITLY^e, AGNES B. WHITLY^e,
ALL INFANTS,.....Defendants.

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Issue summons in Chancery to second April rules against said
defendants to answer the said plaintiff the bill in Chancery.

Appoint George F. Whitly, guardian add litem, for the infant
defendants.

E. Williams pg.

Write to Mrs. Mary V. Whitly for deposit
tag

DANIEL V. WILSON,
vs. J. H. WILSON.
GEOGRAPHIC. CITIZENSHIP CASE.

DEPOSITIONS.

ERNEST H. WILLIAMS
Attorney-at-Law
SMITHFIELD, VIRGINIA

died at night to settle all he owed, he paid out three or four hundred dollars, everything he owed.

Q. The papers that you handed me state that his estate owes Mr. Bailey, undertaker, \$212.50, Dr. Massey, \$35.00 and Dr. Morrison \$19.00, have you made any arrangements towards settling these bills?

A. I have become responsible for the payment of these bills and I expect to see that every dollar that my husband owes is paid.

Further this deponent saith not--

Marie V. Witley

STATE OF VIRGINIA.

COUNTY OF ISLE OF WIGHT. TO WIT:

I, John I Clark, a Notary Public, for the County aforesaid, in the State of Virginia, do hereby certify that the aforesaid depositions of Marie V. Witley were duly taken, sworn to, and subscribed to before me at the time and place and for the purpose in the caption here to mentioned.

Given under my hand this 21st. day of June, 1920.

John I. Clark
Notary Public.

My Commission expires 9-17-1921

Q. Did this land belong to your first husband?

A. Yes sir.

Q. How many acres in the place?

A. One hundred and thirty(130), more or less, I think there are more, that is what the deed calls for.

Q. At the time of your marriage, or at any time, had your husband, Albert Whitley, owned any real estate or chattle property?

A. No sir, none what ever.

Q. Who had charge of your farm and carried on the business of farming on your place during the life time of your husband, Albert Whitley?

A. Who, why he had charge, wholly and soley, and I suppose he had charge as my agent.

Q. Who sold the products grown on this farm from time to time?

A. He sold them always, I never tried, I never could do business out doors, and to sell products you have to do business out doors.

Q. What was done with the funds arising from the sale of the products off the farm?

A. He had it, and what he didn't use to pay the bills with he always deposited in bank always in his own name, always.

Q. Did you in the fall of 1919 sell the standing timber on your farm and if so what price did you receive and what was done with the money?

A. I didn't sell it, Judge, Mr. Whitley sold it and got \$1200.00 for it and deposited it in the bank in his name.

Q. But you had to sign the deed.

A. As I have told you before under what circumstances.

Q. The timber money absolutely belonged to you?

A. Yes sir.

Q. And he deposited it in the bank in his name?

A. Yes sir.

Q. You allege in your bill that there is now in the bank \$1381.85, and you also allege in your bill that \$1025.00 of that sum was for timber, can you give an account of where Mr. Whitley got the difference between the timber money deposited and the total amount to his credit?

A. He got it out of peanuts, as I told you, peanuts raised at home on my farm.

Q. Did Mr. Whitley owe any debts at the time of his death?

A. None except those I put on the paper, he came in the day he

The depositions of Mary V. Whitley et al, taken before me, John I. Clark, a Notary Public, in the County of Isle of Wight, State of Virginia, in the office of E. H. Williams, in the town of Smithfield, Virginia, on June 5th, 1920, between the hours of nine A. M. and six P. M., in pursuance of the notice hereto annexed, to be read as evidence in behalf of Mary V. Whitley in a certain suit depending in the Circuit Court of the County aforesaid, wherein Mary V. Whitley is plaintiff and Grace L. Whitley et als are defendants.

Present E. H. Williams, Attorney, for the plaintiff.

George F. Whitley, Guardian ad litem, for the infant defendants.

Mary V. Whitley being duly sworn deposeth as follows:

- Q. Mrs. Whitley, what is your name, age, residence and occupation?
- A. My name is Mary Virginia Whitley, my age is forty-one, and of course a farmer and live in Isle of Wight County.
- Q. And you are the plaintiff in the suit of Mary V. Whitley vs. Grace L. Whitley et als?
- A. Yes sir.
- Q. Mrs. Whitley, in your bill you allege that you are the wife of Albert Whitley, deceased, when were you married?
- A. 19th of December, 1901.
- Q. When did your husband, Albert Whitley, die?
- A. 16th, of last gone February, -1920.
- Q. How many children did he leave surviving him, together with their ages?
- A. Four, Grace L. Whitley, age 16, James A. Whitley, age 12, Eunice E. Whitley, age 9, and Agnes B. Whitley, age 6.
- Q. At the time of your marriage to your deceased husband, Albert Whitley, what property did you own?
- A. I didn't own all of the place then, because it all had not been paid, it had been bought to be paid as you pay rent, I had farming utensils, horses, cattle, right many at that time, hogs and all like that.
- Q. In other words, at the time of your marriage you owned all of the personal property and this farm except a small deed of trust then on it?
- A. Yes sir, well now there had not been so much paid on it.

MARIE W. WHITLEY,

Wife of J. W. WHITLEY, 340 1/2

SMITHFIELD, VA. 228.

DECEASED.

1920

June 21st

Enter this:

C. H. W.

W. H. Lundy Clerk to the
Court of this decree

By D. Whitley,
Guardian ad litem

E. H. Williams, Jr.
Attorney

Co. B No 7 - p 563

ERNEST H. WILLIAMS

Attorney-at-Law

SMITHFIELD, VIRGINIA

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

JUNE 22ND. 1920.

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MARIE V. WHITLEY, ... Plaintiff.

VS) In Chancery.

3401

GRACE, WHITLEY, JAMES A. WHITLEY, EUNICE E. WHITLEY, AND
AGNES B. WHITLEY, ... ALL INFANT, ... DEFENDANTS.

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in which Marie V. Whitley is complainant and Grace, James A. Eunice E. and Agnes B. Whitley, all infants, are defendants,

This cause came on this day to be heard upon the complainant's bill, the answer of the infant defendants by their guardian ad litem, *John G. Whitley, a competent and disinterested attorney at law, appointed at miles, said and upon the general collection* and the answer of the guardian ad litem, the depositions *witnesses* of Marie V. Whitley, and by consent of all parties in interest,

and was argued by counsel.

On consideration whereof, the Court being of the opinion from the evidence in this case, that the thirteen hundred and eighty one dollars and eighty-five cents (\$1381.85) on deposit in the Bank of Smithfield, Virginia, to the credit of Albert Whitley, deceased, *is the property of the said Marie V. Whitley* is subject to a resulting trust in favor of

~~the said Marie V. Whitley, now, therefore, the Court doth ad-~~ judge, order and decree that the said Bank of Smithfield shall pay the said sum of \$1381.85 to the said Marie V. Whitley or *then*

order as soon as the said Bank of Smithfield shall have received a duly attested copy of this decree, *and it is ordered that the complainant pay the cost of this suit*

And nothing further remaining to be done in this cause it is order^{ed} that this suit be stricken from the docket.

* infant delay suit, by their guardian ad litem, and upon the amount of

John G. Whitley is the bank, which means and upon