1784-004 GOOCHLAND CO. CHANCERY PAPERS Daniel FORE vs. Samuel COSBY

Burton, Cary, Cheatwood, Chittwood, Cogbill, Cox, Morrisett

To the worshipful Court of Goochland County in Chancery sitting.

Humbly complaining sheweth unto your worships your Orator Daniel Fore at present of the State of North Carolina That your Orator is eldest Son and Heir of a certain Daniel Fore formerly of the County of Henrico in this State but now and long since deceased. That your Orator at the Time of his Father's Death resided in North Carolina and hath continued to live there ever since. That your Orator's said Father was in his Life time and at his Death seized and possessed in Fee of and in some Lands and two Slaves named Bob and Hannah and some moveable Estate and duly made and published in Writing his last Will and Testament bearing Date the 15 January 1740 and now of Record in the Court of the said County of Henrico to which said Will there is Record your Orator refers and prays the same may be made Part of this his Bill. That the said Daniel Fore deceased died without revoking the said Will and Testament and among other Things therein directed he gives and bequeaths to his dearly beloved Wife Mary the Plantation he then lived on with a Negro Man named Bob and a Negro Woman named Hannah and one half of his moveable Estate and the other half of his moveable Estate he directed to be equally devided among his Children (your Orator Daniel, Richard, Mary, Frances and Elizabeth Fore) and if his Wife should marry that then all his moveable Estate should be equally devided among her said Wife and Children. Your Orator sheweth that Mary the Wife of the said Testator married in a few years with one Mallthew Chatwood and is now his Wife. Your Orator further sheweth that one of the Daughters of the said Testator intermarried with one Samuel Corley a Defendant to this Bill to wit Fore, but she is long since deceased, and that the said Samuel combining and confederating himself with others unknown to your Orator whose Names when known your Orator prays may be inserted in this Bill with apt words to charge them and each of them divided and allotted the Slaves of your Orator's Father among himself and the Children of the deceased except your Orator who was still in North Carolina all which he will shew he could have no Claim or Pretensions to them or any Part of them as they were devised to the Wife of the Testator. Your Orator further sheweth that the said Mallthew Chatwood and Wife have released by Deed duly executed and admitted to Record in Chesterfield County all their right Interest and Title to and in the Slaves Bob and Hannah and their Increase to your Orator to which Deed totally of Record in the said Court your Orator refers and prays that the same may be taken as Part of this his Bill: So that your Orator is seized in the Estate of the said Slaves both as Heir to the said Daniel his Father and from the Purchaser from the said Mallthew and Wife of their Title: and your Orator sheweth that he hath made Application in a friendly manner to the said Samuel Corley to deliver to him the Slaves of his Father deceased with their Increase which he hath do

and to account with him for the Use thereof and your Orator hath even made Proposals the most advantageous & beneficial to the said Samuel and which the said Samuel ought to have advised as to reject and your Orator trusts will even hereafter be in his Power to accept. And the said Samuel Corby the Defendant hath refused to Comply with your Orator's reasonable Request and deliver to him the Slaves or any Part thereof or render him for the Use thereof which Actings and Doings of the said Samuel are contrary to Equity and good Conscience tend much to your and disturb your Orator and him to impoverish. Forasmuch as your Orator is without Remedy in the Premises by the strict Rules of the Common Law the more especially as he knows not the Names and Ages of all the Slaves at present held so unjustly by the Defendant except Cuar and Nancy and the whole Transactions ought to be discovered and your Orator can no where so properly find Relief as in this Worshipful Court the Matter of this Cort are properly Cognizable unlawful Combinations and unfair Proceedings thereon set aside and Justice duly obtain. To that End therefore your Orator prays that the said Samuel Corby may upon his Corporal Oath as true distinct and perfect Answer make to all and singular the Premises as fully as if the same were here repeated and interrogated to be answered unto, and that his Confederates may upon their respective and corporal Oaths when discovered full and perfect Answer make to all and singular the Premises. That the said Samuel Corby may discover on Oath what and how many Slaves he hath in his Possession and claims who were formerly the Property of Daniel Fox deceased — their Ages, Names and Sizes. How came he possessed of them Slaves and when? That he may shew by what Deed or Conveyance he holds them. Did not your Orator by himself and his Attorney make to him generous Proposition which he rejected at a Time when others concerned in the same Manner most gladly embraced them?

Your Orator prays that any Combination which was made and entered into by the said Samuel Corby and Wife and the other Children of the said Daniel Fox deceased with other Persons to the Distension and Injury of your Orator and in his absence may be set aside and defeated. That the Deed from the said Matthias Cheatwood and Wife to your Orator may be established for the Uses Benefits and Purposes for which it was intended and meant And that by a Decree of this worshipful Court the Defendant Samuel Corby may be compelled to render and deliver up to your Orator the Slaves Cuar and Nancy and their Children and Increase and the other Slaves and their Increase which belonged to the said Daniel Fox deceased or descended from that Stock and that your Orator as a fair Purchaser in Part and in by Descent in Part may be possessed thereof as of his own proper Slaves and that the Defendant Samuel may account for the Hire and annual Profits of the said Slaves as to your Worship shall seem equitable And that your Orator may obtain all such Other and further Relief in the Premises as shall be agreeable to Justice and good Conscience.

May it please your Worships to grant unto your Orator a Writ of Subpoena in the Nature of this Common Wealth to be directed to the said Samuel Corby commanding him to appear on a certain Day &c.

William Forsyth

For

Vs Jos Bill

Corby

Lowtland

1782 June Cont.
for Ans.
Sept. Ct. Ans. gilt
Plume
Oct. Ct. Cont.
Nov. 1783
Cont. for Dep
June same Ar
Aug. Same Ar

The answer of Samuel Cosby Deft. to Bill of Complaint exhibited against him by Daniel Fore Complt.

This Defendant saving to himself now & at all Times every advantage of Exception to the many Errors, Untruths & Imperfections in the Complts Bill contained for answer to so much thereof as he is advised is material for him to make answer to: saith; That he admits said Daniel to be the eldest Son & Heir of Daniel Fore decd. formerly of the County of Henrico: That Daniel Fore the elder was seized of Lands in Fee & possessed of two Slaves Bob & Hannah together with movable Estate: That he made a last Will & Testament dated the 15th January 1740 & now of Record in the County of Henrico to wch this Defendant begs leave to refer & prays it may be taken as part of this his Answer: That the said Daniel the elder devised his Land to his Wife & bequeathed to her said two Slaves Bob & Hannah & half the Rest of his movable Estate; the other half of his movable Estate he bequeathed to be equally divided between his Children Daniel Fore the Complt. Richard Fore Mary Fore, Frances Fore, & Elizabeth Fore & provided that in case his said Wife should marry that then all his movable Estate be equally divided between his said Wife & Children.

This Defendant further saith, That after the Death of Daniel Fore the elder ~~his wife~~ his said Wife did marry again to a certain Matthias Whitwood to whom Daniel the Younger sold his part of his Father's Estate for a valuable Consideration & gave Receipt in full of all Demands for the same.

Afterwards about the Year of his Brother died & the Complt. Daniel brought Suit against

against his Father in law Chitwood for his Brother Richard's part of the Estate: but was cast on Account of the said Receipt in full to said Chitwood given: That not before & about twelve or fourteen Years after his Father's Death said Complt Daniel removed to Reside in N. Carolina: where he has resided ever since: This Defendant further answers, That afterwards when the two younger Sisters Frances & Elizabeth came of Age & saw that said Chitwood was in a fair Way from his Mismanagement profusion & Extravagance to spend & destroy their Estate, they chose Colo. Archibald Cary as Guardian who brought Suit against Chitwood & after a tedious process of Six or seven Years last got a Decree for a Division of said Estate in which Time the Complt Daniel was three or four Times in this State & intimately acquainted with every the most minute Circumstance of his Sisters Proceedings: That after the Suit had got a Decree the worshipful Court of Chesterfield appointed three Men to make a Division; but neither of them chose to be concerned Whereupon John Morriset who married Frances & this Defendant who married Elizabeth applied to Chitwood & by Articles of Covenant & Agreement, dated January 26th. 1761. as part of this his Answer accompromised the Matter with him, leaving him in possession of four Slaves all of which he has since sold & squandered away the Money arising from the Sales. That this Defts Part amounted to two Slaves Nanny about nine Months & Grease about nin[illegible] who have Issue. viz.h Grease Bob about ten, about three Years of Age — Nanny Harry

This Defendant denies all Combination & Confederacy &c. without that that &c. & humbly begs to be hence dismissed with his reasonable Costs in this Behalf unjustly sustained.

Goochland County Sct. Mihie for Deft

Sworn to in the usual Form before me

this 16th Sept. 1782. Tho.s L. Bates.

Looby
ads
Tore

Answer

1781 August
The Pltff failing to
give Security for Cost
Suit agreable to a
former Rule of the
Court: On the Motion
of the Deft by his
Atto. this Suit is Dis-
-mis'd at Pltffs Costs

Goochland County, August 11th 1783

The Deponent Archibald Cary being first Sworn, Deposeth That on Application to him, (Many Years Agone) by Some Friends to the Children of a Certain Daniel Ford Dec.d whose Widow had Intermarryed with a Mathias Chitwood a Man of an Infamous Character: that he the Said Chitwood was waisteing the Estate and otherways Misbehaveing to the Children of Ford, who had Left Some Considerable Estate. he the Deponent made Inforamation to Chesterfield Court, and as well as he now can recollect was by the Court Appointed Gaurdian to the Younger Children, & as Such Commenced a Suit v.s Chitwood for a distribation of the Estate Agreable to the Will of the Said Ford. the Transaction is Much out of the Deponts Memory, but he thinks a Decree past and Persons were Appointed for Makeing a Division, but that Some of his Wards he thinks Marryed before the Business was Finished, and he Understood that Chitwood had made some division to their Approbation, and he never More Interfeared In the Business, the Deponent Cannot Say of his Knowledge at this Length of Time, having no Documents by him of the Transaction, any thing more particular on the Subject.

Archibald Cary.

Sworn to before us the date above.

John Woodson Thos. L. Bates

Nath.l B. Morris

The deposition of Archibald
Cary Esq.r for Corby
ads Ford.

Commonwealth of Virginia by the grace of God. To John Woodson & Nath.l G. Norris
and Thomas Fleming Bates Gent. Justices of the peace for the County of
Goochland greeting know Ye that we trusting to your
Fidelity & Provident circumspection in Diligently examining Archibald Cary Esqr. a

Witness on behalf of Samuel Cosby &c Daniel Fore We command you or any two
or more of you, that at such time & Place as you shall appoint, you Assemble your
selves & the Witness aforesaid before you or any two or more of you, you call and
cause to come & Diligently examine on the Holy Evangelist of Almighty God
& his Examination into our Court of Goochland distinctly & plainly without
delay you shall send, & this shall be your Warrant. Returning also this Writ. Witness. Geo.
Payne Clerk of our s.d Court at the Court house the X day of June. in the
XV.th year of our Commonwealth

G. Payne

Corby
adr
Fore

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The Disposition of Mathias Chitwood Aged Sixty two Years. who being Sworn on the Holy Evan=gelist of Almighty God deposeth and saith that some time after the death of Richard Pore the Younger Brother of Daniel Pore the Plaintiff as well as this deponant remembers about three Years, ~~this Deponant was present when Daniel Pore~~ this Deponant paid the said Complainant Daniel Pore a Sum of money as well as he can Recollect Twenty two pounds ten Shillings Curr.t in full for his Proportion of his Dec.d Fathers Est.e for which he the deponant obtained a Receipt, and between Eight & ten Years from this date this Deponant together with Mary his Wife past all their right and Title to a number of Slaves which they held under the Will of Dan.l Pore the Testator to the Complainant Daniel Pore, and this Depo=nant being Interogated saith that at the time of passing the before mentioned Conveyance none of the s.d Slaves were in his Possession, nor had been for eight or nine Years, and further saith that in consideration of the before mentioned Conveyance to Daniel Pore the Plt he this Depo=nant was to receive two Negroes or Six Hundred Pounds, Provided the s.d Slaves were recovered by the Plt. Dan.l Pore - and further this Deponant saith not. Taken before us

his
Mathias X Chitwood
mark.

June 19. 1784
Abram Falle
David Patterson

Dr Sir

Sept 18 1784.

The bearer here of mr Daniel Fore Waits on you to know what he had better do Relative to his Suit v Cosby. for my part I have nothing more to do with the Suit nor for mr Fore in any manner whatsoever; and I am not at this Time his attorney. I have advised Fore to Engage to give any part of the negroes that you recd Except If to Conduct the Business for him — I am apprehensive that he will not Stand any chance to Recover the negroes in Goochland, as I perceive that Every body in that County that says any thing about it to be inclineable for Cosby to keep the negroes. — However I still think that the negroes are Real Estate under the Law at that Time, But that you are the best Judge. Fore Tells me he

he Intends living in Virginia, and if so I Suppose the Court will not Dismiss his Suit.

Tho you may inform the Court that I am not the attorney for Thos nor neither will I be answerable for any costs for him Relative to that Suit nor no others.

I am y Hble Servt
Jesse Cogbill

Cogbill Jesse

Ret in Suit for Colby Granted

Commonwealth of Virginia To Abraham Vallee Gen.l Geo.
& David Patterson Gent. Justices of the Peace for the County of
Chesterfield ~~County~~ greeting. Know ye that We trusting to your fidelity
& provident Circumspection do diligently examining Matth.
Chetwood a Witness on behalf of Samuel Cosby ~~or~~ Daniel
We command you or any two or more of you that at such
& Place as you shall appoint you assemble yourselves, & the
said aforesd. before you or any two or more of you, you cause
cause to come & them diligently examine on the Holy evangelists
of Almighty God, & his examination into our Court of Ch.
distinctly & plainly without delay you shall send & certify
close & returning also this Writ. Witness Geo.r Payne Clerk
o.r Court at the Court house the xvij day of May in the
Year of our Independance

G. Payne

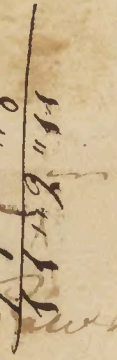
Corby
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The deposition of Mary Burton of Lawfull Taken in a suit in Chancery
Depending in the county court of Goochland Between Daniel Fore &
Samuel Cosby. being Sworne on the holy Evangelist of almighty god
Deposeth and saith that she thinks it is forty two years Since
Mathias Cheatwood Married her mother that her Brother Richard
died about thirty seven years ago. and that her Brother Daniel the
Plaintiff lived with his Father at the time of his Death that he was
in this State at the time that her Sister Mrs Cosby the Defendant in
died that four Negroes to wit Bob Hanah Sam & Aggey. were left
in Possession of Mathias Cheatwood Father in law to the Plaintiff
after John Maxwell & the Defendant Sam Cosby had got their
respective shares that Daniel Fore the Plaintiff resided in this
State Ten or Twelve years after the death of his Father & further
She saith not

Sworne to before us this 12th day of August 1783

Edwd Haskins
Gd Williamson

Capt. George Williamson



Newhaton Ck

[illegible] of
Mr. Walker

Commonwealth of Virginia To Edward Hawkins and a
George Williamson Gent. Justices of the Peace for the
County of Powhatan greeting Know ye that we trusting
in your fidility & provident circumspection do Deligently Exam.
Mary Burton a Witness in behalf of Same
Corbin Dtt. we command you or any two or more of
you that at such time & place as you shall appt. you assemble yourselves
and the witness afors. before you or any two or more of you, you call,
& cause to come and Deligently Exam. on the Holy Evangelist of almighty
God. and Examination into our Court of Goochland
County actionally & plainly without delay you shall send
Certify inclosd, returning also this Writ. Witness Geo. Payne
Clerk of our s. Court at the Court house the Xth day of
August MDCCLXXXVIIJ

G. Payne

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} Did ms

Commonwealth of Virginia, To Bernard Markham, John Tinsley and Dan.l Patterson Gent. Justices of the Peace for the County of Chesterfield greeting Know ye that we trusting to your fidelity & Provident circumspection in diligently Examining Henry Ex. Tho.s Cary & John Lee Judith Ex.x of Mark Batson Witnesses in behalf of Samuel Corby agt Daniel Fore, We command you & any two or more of you that at such time & place as you shall appoint you Assemble yourselves & the Witnesses aforesd before you or any two or more of you, you call & cause to come & them diligently Examine on the Holy Evangelist of Almighty God, & their Examination into our Court of Goochland distinctly & plainly without delay you shall send Herein fail not, & returning also this Writ, Witness Geo. Payne Clerk of our s.d Court at the Court house the xxij day of February MDCCLXXXij

G. Payne

Chesterfd County ss. the day by appointment of Samuel Casby we attended at the house of Judith Cox of this County to take the deposition of the said Judith ~~who being~~ and Mathias Chitwood in behalfe of said Samuel Casby the said Judith Cox & Mathias Chitwood having appeard before us Each of them Refused to be Sworn in the said Matter Given under our hands this 19th day of April 1803—

Bernard Markham

David Patterson

Casby
ads
Fore

Doms
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Commonwealth of Virginia by the grace of God. To the Sheriff of Chesterfield County greeting We command you that you Summon Judith Cox & Matthews Chetwood to appear before our Justices of our County Court of Goochland at the Court house of the s^d. County on the third Monday in June next to testify and the truth to speak in behalf of Samuel Cosby. in a certain matter of Controversy in our s^d. Court before our s^d. Justices depending & undetermined between the s^d. Samuel Cosby. Deft. & Daniel Fore Pltff. & this they shall in no wise Omit under the Penalty of £100 each & have then there this Writ. Witness Geo. Payne Clerk of our s^d. Court at the Court house the XX. day of May in the XV^j year of our Commonwealth

G. Payne

Corby
adv
Fore
} Supra

Exam.

Mem. Branch Bill
for Dan. Hall. Esq.

Commonwealth of Virginia. by the grace of God. To the Sheriff of Goochland County, Greeting. We command you to Summon Samuel Cosby, to appear before our Justices of our County Court, at the Court-house of the said County, on the third Monday in April next to answer the bill in Chancery exhibited ag.st him in our said Court, by Daniel Fore, and this he shall in nowise omit under the penalty of £100. and have then there this Writ. Witness Valentine Wood Clerk of our said Court, at the Court-house, the xx.th day of March, in the 2.d Year of our Commonwealth.

Val. Wood.

Fore v. Cosby.

Sp.a in Chancery.

Epented this 8th
Sept. 1778
Josiah Woodson
D. Jeffs

1778. April. cont.d for
Bill.
July. same order.
Nov.r same order.
1779. June. same ord.r
July. Bill fil. & time.
1780. Mar.r cont.d for
answer.
1782. June. Same Or.
July. Jue ther
time to Ans.r
Aug.r Att.a for Ans.r
Sept.r Apl. Pltf Com