1005

Chew, Araminta, and sundry other negroes by their next friend J. Davis
vs
Heirs and Devisees of Richard Darnell

Anne Arundel Co. 1817

Bill, Exhibits, Answer Decree

Recorded in Liber #106-486

17898 - 1005

63/4 od J.

Arabinella Chew & others
by Jno Dawson their
next friend &c

v

The heirs & devisees
of Richd Dansall

Filed 11 Septr 1816
Publ'd —

103

To the honorable William Kilty
Chancellor of Maryland

The Petition of Araminta Chew
Letty Chew, Henry & Mich^l Chew, Frank
Chew, & Ralph, Judea, Henry, Polly and
Samuel James by John Davis their next
friend humbly sheweth.

That a certain Richard Dar
=nall did in his life time towit on
the tenth day of May eighteen hundred
and five duly execute and acknowledge
a deed of manumission wherein and
whereby your Petitioners were manumitted
and set free as will appear by the
original herewith exhibited.

Your Petitioners further state
that the said Richard Darnall died
soon after the Execution of the said ma
=numission and that the said deed of
manumission has been omitted to be

17898 - 1905

recorded within the time prescribed by law but without any fraudulent design or intention in any person whatever. Your Petitioner therefore pray your honor to give such Notice to the heirs & devisees of the said Richard Dunnall as may be necessary and that the said deed may be recorded by decree of this honorable Court & they will pray &c

Nich. Brewer for Pet.

Chamuntas & Lelly Chew and others by John Davis their next friend against The Heirs & devisees of Richard Dunnall } In Chancery Sept. 11th 1816

The Object of the Petition is to obtain a decree for recording a deed of Manumission executed by Richard Dunnall on the tenth day of May eighteen hundred & five for manumitting and

selling free the complainant

It is therefore

Ordered that the complainants by causing a copy of this Order to be inserted three successive weeks in the Maryland Republican before the 11th day of October next give notice of this application & of the substance and object thereof that any persons who may be interested may appear in this Court in person or by a Solicitor of this Court before the 11th day of February next to shew cause if any they have wherefore a decree should not be passed as prayed

W Kilty Ch

Hn

Richard Darnall
to
Sundry Negroes
Copy ~~of~~ Deed of
Manumission

D

2

To all persons to whom these presents may concern.

Know ye that I Richard Darnall of Portland manor anne arundel county for divers good causes and considerations have Emancipated and sett in full Liberty and Freedom the following negroes to wit — Negroe Henrietta James. Nathan James. Benjamin James. Serisa. Areminta, Lotty, Henry, Michael, and Frank sons of Areminta. also Negroes Giles. Clare. Ralph. Henry + Judea. Rachael Sam. and Polly and by these presents do Emancipate and sett in full Liberty and freedom the aforesaid Negroes Henrietta, Nathan. Benjamin. Serisa. Areminta Lotty Henry. Michael. Frank, Giles, Clare, Ralph. Henry Judea. Rachael. Sam. and Polly. and each and every of them and their future Increase. and I the said Richard Darnall for my self my Heirs Executors and administrators do hereby forever relinquish and release to the said Henrietta. Nathan Benjamin. Serisa. Areminta. Lotty Henry Michael and Frank. Giles Clare. Ralph. Henry. Judea. Rachel Sam and Polly. each and every of them and their children hereafter any and all manner of right. title claim or demand. that. I have or may have to the services of them or either of them. but that they and each of them and their future. Increase

17898 - 1005

shall and may do an act in all things
without the lett hinderance or
disturbance of me the said Richard
Darnall or any other person or
persons whatsoever claiming or to
claim any right or title to the said
Henrietta, Nathan, Benjamin,
Serisa, Aremintia Lotty, Henry, Michael
Frank, Giles, Clare, Ralph, Henny
Judea, Rachael, Sam, and Polly
by from or under me, Hereby fully
Acquitted, Released Exonerated and
discharged, to the said Henrietta
Nathan Benjamin, Serisa Aremintia
Lotty Henry ~~Rachael~~ Michael
Frank, Giles, Clare, Ralph Henny
Judea, Rachael, Sam, and Polly
by these presents. In Witness
whereof I the said Richard Darnall
hath Hereunto sett my hand and
affixed my seal this tenth day of
May one Thousand Eight Hundred
and five —
Signed Sealed and delivered } Richd Darnall (Seal)
in presence of }
Sermingham Drury
Sam Harrison

On the 10th day of May in the year 1805
one thousand Eight Hundred and
five personally appeared Richard
Darnall party to the within Deed
before me one of the Justices of
Ann Arundel County and acknowledged
the same to be his act and deed to
and for the uses and purposes

therein mentioned and agreeable to the form of the act of assembly in such cases made and provided

Acknowledged before Sam Harrison

Received the 19th day of May 1814 to be recorded, same day recorded in Liber B. No. 2 fo 264 &c one of Anne Arundel County manumission record books and examined by

Wm S. Green Clk

True Copy Test

Thos. H. Bowie
Rey Lucas

4 s 6d

Richard Damall

to

Sunday Negroes

Manumission

Received the 19th day of May 1814 to be recorded same day recorded in Liber B No. 2 fo 264 No. one of three hundred County manumission record books and examined by

Wm. S. Green Clerk

To all Persons to whom these presents may concern, Know ye that I Richard Darnall of Patland manor Anne Arundel County, for divers good causes and considerations have Emancipated and sett in full Liberty and Freedom the following Negroes to wit, Negroe Henrietta James, Nathan James, Benjamin James, Teresa, Arminta, Lotty, Henry Michael and Frank sons of Arminta, also Negroes, Giles, Clare, Ralph, Henny Judea, Rachael, Sam, and Polly. and by these presents do Emancipate and sett in full Liberty and freedom the aforesaid Negroes, Henrietta Nathan, Benjamin, Teresa, Arminta, Lotty, Henry Michael, Frank, Giles, Clare, Ralph, Henny Judea Rachael, Sam, and Polly, and each and every of them and their future Increase, and I the said Richard Darnall for myself my Heirs, Executors and Administrators do hereby forever, Relinquish and release to the said, Henrietta, Nathan, Benjamin Teresa, Arminta Lotty, Henry, Michael, and Frank, Giles, Clare, Ralph, Henny, Judea, Rachel, Sam, and Polly, each and every of them and their children Hereafter any and all manner of right, Title, claim or demand, that I have or may have to the Services of them or either of them, but that they and each of them and their future Increase shall and may do and act in all things without the lett Hinderance or disturbance of me the said Richard Darnall or any other person or persons, whatsoever claiming or to claim any right or title to the said-

Henrietta, Nathan, Benjamin, Terisa, Arminta Lotty, Henry, Michael, Frank, Giles, Clare, Ralph Henny, Sadea, Rachel, Sam, and Polly, by from or under me Hereby freely Acquitted, Released, Exonerated and discharged, to the said, Henrietta, Nathan Benjamin, Terisa, Arminta, Lotty, Henry, Michael Frank, Giles, Clare, Ralph, Henny, Sadea, Rachel Sam, and Polly, by these presents, In Witness whereof I the said Richard Darnall hath Hereunto Sett my hand and affixed my seal this tenth day of May One Thousand Eight Hundred and five

Signed Sealed and delivered in presence of
Jerningham Drury
Sam Harrison

Rich. Darnall (Seal)

On the 10th day of May in the year One thousand Eight Hundred and five, personally appeared Richard Darnall party to the within Deed before me one of the Justices of Anne Arundel County and Acknowledged the same to be his Act and deed to and for the uses and purposes therein Mentioned and agreable to the form of the act of Assembly in such cases made and provided

Acknowledged before Sam Harrison

2

Chew
vers
Darnall

Ag. Hollands objections
to Decree &c

filed 1 Oct 1816

D

4

To the Honble William Pitt Chancellor of Maryland.

~~Henry~~ The petition of Henry Holland respectfully sheweth that having had notice of the filing of a petition in this cause by Araminta Chew Pottinger, their next friend John Davis, the object of which is to have obtain a decree for the recording of a paper purporting to be a deed of manumission executed on the tenth day of May in the year 1805: by a certain Richard Daniel to the petitioners, and being in possession of evidence of the persons named in the said paper, to wit Rachel Henry, which descended to your petitioner in right of his wife he is opposed to the prayer of said petition & prays that the same may not be recorded.

1st. He alleges that the said Richard Daniel, never intended that the same should be recorded, as is evidenced by his retaining the possession of the paper and not suffering the same to be placed upon record.

2nd Because ~~[illegible]~~ no

power is given to the Chancellor, to order such deeds to be recorded. the act of Assembly, upon the subject, does not contemplate deeds of manumission.

3. Because the petitioners are held in slavery, and considered by the laws of the land to be slaves; and while such, ~~[illegible]~~ no bill or petition can be entertained by Chancery, ~~[illegible]~~ in their instance or for their benefit.

For these, & many other reasons, the petitioner prays that the above petition may be duly noticed.

J. C. Mesquida

2

Chew
vers
Darnall

John Wickes & Hy Darnalls
objections to Decree &c

Filed 1. Oct. 1816

5

On the petition of
Araminta Chew Potter
& John Davis their
next friend.

In Chancery

John Weeks & Henry Dawes, who hold
service of the petitioners in Chancery, pray
that the said petition may be dismissed

1st. Because the law of the land
does not authorize them, either in
person, or by their next friend to institute
any proceeding in Chancery.

2. Because the Court has no power,
to decree that deeds of manumission
be recorded, after the expiration
of the term, within which the law
doth allow to be recorded

3rd. Because the said deed was never
perfected by delivery either to the
petitioners, or to any person for their
use and the Richard Dorsey was
not bound in law, to execute the
same

17898 - 1005

A C Cheyney for petitioners
Weeks & Dawes

September 14. 3w

In Chancery,

September 11, 1816.

Araminta and Letty Chew, and others, by John Davis, their next friend,

AGAINST

The Heirs and Devisees of Richard Darnall.

The object of the petition is to obtain a decree for recording a deed of manumission executed by Richard Darnall, on the tenth day of May, 1805, for manumitting and setting free the complainants.

It is thereupon adjudged and ordered that the complainants, by causing a copy of this order to be inserted three successive weeks in the Maryland Republican, before the 11th day of October next, give notice of this application and the substance and object thereof, that any person who may be interested may appear in this court, in person or by solicitor of this court, before the 11th day of February next, to shew cause, if any they have, wherefore a decree should not be passed as prayed.

True Copy. Test,
THOMAS H. BOWIE,
Reg. Cur. Can

September 14. 3w

Land for Sale

Annapolis Febry 13. 1817.

I certify that the above order has been published in the Maryland Republican three successive weeks.

Hon Seth Chandler
Thos. P. Leakin

P

17898 1005

(11)

The Act of Assembly under which the Publication is made does not direct in what manner the defence of any, in Consequence of the Notice, is to be Conducted. In the first Objection by Holland and the third by Weither & Darnall facts are Stated which do not appear by the Petition - but being only alleged in the Petition, they Cannot be taken to be true as in an Answer

The Parties may take Measures for having the Parts that may be thought Material before the Court

By the Petition last mentioned, was meant the one filed by Mr Holland
July 23d 1817 Wilkly Clk

Wilkly Clk
Feby 28th 1817

from the 28th day of July 1817 the date of this decree.

Provided that such Deed shall not destroy or in any manner affect the Title of any purchaser of the said persons considered as property in case of a purchase made after the date of the Deed aforesaid and without notice of such Deed by the person making such after purchase whether such purchase was by contract or by deed recorded agreeably to law. Nor shall the same affect the creditors of Richard Darnall the party grantor who may have trusted him after the date of the deed. and provided also that liberty be reserved to the heirs and devisees of Richard Darnall named as defendants or their heirs devisees or representatives to appear at any time not exceeding eighteen Calendar months according to the 5th Section of the act of 1792 Ch. 41.

Milly Chancr.

Copy

Copy Decree.

Negroes Araminta Chew
and others by I. Davis
their next friend
agt.
The Heirs and Devisees
of Richard Darnall

In Chancery
July Term 1817.

This case was argued at the present Term, and notes were filed on behalf of one of the heirs since which, the proceedings have been considered.

It is the first instance, I believe, of an application to record a Deed of the kind, but I am nevertheless of opinion that it ought to be granted.

It was made under the act of 1792 Ch. 41. the course of proceeding under which was remarked on in the order of February 10th 1817 - No measures have been since taken for having the facts before the Court, and the defence has been made on the construction of the law.

The words of the act are general - "Any deed to the validity of which recording is necessary" - It speaks of land, or other thing conveyed - and the original act on the same subject (1705 Ch 72) spoke of the thing or premises.

The act of 1705 prescribes no time for the recording - That of 1792 adopts the time within which the Deed ought to have been recorded.

The act of 1796 Ch 67 directs that Deeds of manumission shall be recorded within six months; tho it is not so strong in its expressions, as the act of 1715 Ch 47, which directs that no lands &c shall pass by Bargain and sale only, unless the

Deed be acknowledged and enrolled within six months.

The recording however has been considered so necessary under the act of 1796, that after the six months, a claim to freedom under a Deed could not be maintained without it. but I apprehend that the former slave would have a right of freedom from the delivery of the Deed for nearly six months tho subject to be divested by his neglect to have it recorded within the limited time.

It was argued that the Deed of manumission conveyed Nothing. but a right may be conveyed or granted as well as property; and the words of the act are that the person possessing a slave may by writing to grant him his freedom.

As to the right of the parties to bring this suit which has been questioned, I consider their possession of the deed to which they were parties sufficient for such a suit, the next friend being answerable for costs. The Grantor Richard Darnall gave them a power to perfect the Deed by recording. They neglected to use that power. But if the Law extends a remedy to any and every Deed, it must allow the right of application for that remedy to any Grantee therein named.

Altho the neglect to record the Deed divested the right which might have been perfected by the Grantee, it may be revived by the provision made for recording, as the right to maintain an action of Ejectment might be lost and recovered.

I lay out of the case the length of time between the date of the Deed, and that of the petition for recording, and the allegation of the grantor altering his mind, of which there is no evidence. and it is then the ordinary case of a Deed being unrecorded without any fraudulent intention of the party claiming under it, which is always presumed unless the contrary is made to appear.

It is the practice also on publication, to decree the recording of papers, purporting to be Deeds acknowledged, without requiring proof of the actual Execution. The publication is certified to the Court in the usual way. The interest in the persons of the petitioners, considered as property, which is set up by some of the heirs is not such as is provided for by the acts on the subject.

It is thereupon this 20th day of July 1817 by William Pitty Chancellor, and by the authority of this Court, adjudged, ordered and decreed that the Deed of manumission filed with the petition and annexed hereto from Richard Darnall to negroes Henrietta James, Nathan James, Benjamin James, Pricca, Araminta, Letty, Henny, Michael and Frank, sons of Araminta. Also negroes Giles, Clare, Ralph, Henny, Judea, Rachael, Sam and Polly bearing date the 10th day of May 1805 be recorded or entered among the records of the County Court of Anne Arundel County where the Grantor Richard Darnall did reside. the said recording to be within six months

The Answer of
George McDuffie
Dorothy his wife

filed 28th July
1817 –

7

The Answer of George Medhiff and Dorothy his wife, to the Petition of Araminta Chew and others heretofore filed in this honourable Court. These Respondents now and at all times hereafter saving and reserving to themselves the benefit of excepting to the manifold uncertainties and untruths in the said Petition contained for answer thereunto or to so much thereof, as they are advised that it is material for them to answer unto answer and saith, that one of these Respondents Dorothy is one of the heirs of Richard Darnall mentioned in the complainants Petition, and who has since intermarried with your other respondent George Medhiff. They admit that Richard Darnall did in his life time execute and acknowledge the deed of manumission mentioned in the petitioners petition, but which deed of manumission they allege was not recorded agreeably to the Laws of this State, but remained unrecorded until the nineteenth day of May one thousand eight hundred and fourteen. They further answering say that that the petitioners are slaves and cannot bring any action in equity either by next friend or solicitor or in person. These Respondents further state that if the deed was now decreed to be recorded such a decree would work a manifest

17898 - 1005

injustice, as all the property which came to these respondents and the others, heirs and devisees of Richard Darnall by his last will and testament as the children of Francis Darnall has been divided and much the greater part of the petitioners who at this time claim their freedom have fallen on the division of the said personal ~~property~~ Estate to these Respondents. They further state that after the making of the said deed of manumission Richard Darnall (as they are informed and believe) altered his mind with respect to the petitioners, and determined not to liberate them; which was the reason that he did not have the said deed recorded in due time - They further answering say that they are not mentioned in the said petition, and should not have answered, if it had not have been for the order of this Court passed Sept. 11th 1816, and which order they are willing to obey as far as may not be detrimental to their interests, They further state that Richard Darnall died ~~[illegible]~~ on the Twenty fifth day of December one thousand eight hundred and Seven — — They pray

that your Honour would hence dismiss them with their reasonable costs & they will pray &c

James Boyle for Respondents

Anne Arundel County to wit;

Personally appeared the within named George Medcliff and Dorothy his wife and made oath that the facts contained in the within Answer are true to the best of their belief and knowledge. Sworn to this 31st day of October in the year 1816 before me

Thomas Sellman

the Deed of Manumission filed with the Petition and Annexed hereto from Richard Damall to Negroes Henrietta James - Nathan James - Benjamin James - Teresa - Araminta - Letty - Henny - Michael and Hanl. Sons of Araminta - Also Negroes Giles, Clare, Ralph, Henny - Judea, Rachael, Sam, and Polly, bearing date the 10th day of May 1805 be recorded or entered among the Records of the County Court of Anne Arundel County where the Grantor Richard Damall did reside - the said recording to be within Six Months from the 28th day of July 1817 the date of this decree.

Provided that such Deed shall not destroy or in any Manner affect the Title of any Purchaser of the said Persons considered as Property in Case of a Purchase made after the Date of the Deed aforesaid and without Notice of such Deed by the Person making such after Purchase whether such Purchase was by Contract or by Deed recorded specially to Law - Nor shall the Same affect the Creditors of Richard Damall the Party Grantor who may have trusted him after the Date of the Deed - and Provided also that Liberty be reserved to the Heirs and Devisees and the of Richard Damall named as Defendants or their Heirs Devisees or Representatives to appear within at any time not exceeding Eighteen Calendar months according to the 5th Section of the Act of 1792 Ch 41.

Whitty, Chancr

Decree July 28th 1817

Chancr
vs
Damall

Copy

Negroes Araminta Chew and others by J Davis their next friend of the Heirs and Devisees of Richard Dawall

In Chancery July Term 1817

This Case was argued at the present Term, and notes were filed in behalf of one of the Heirs since which, the Proceedings have been considered.

It is the first instance, I believe, of an application to Record a Deed of the kind, but I am nevertheless of opinion that it ought to be Granted.

It was made under the Act of 1792 Ch 41, the Course of proceeding under which was remarked on in the Order of February 18th 1817 — No Measures have been since taken for having the facts before the Court, and the Defence has been made on the Construction of the Law.

The Words of the Act are general - "any Deed, to the Validity of which Recording is necessary" - It speaks of Land, or other thing Conveyed - And the original Act on the same Subject (1785 Ch 72) spoke of the thing or Premises

The Act of 1785 Prescribes no time for the Recording - that of 1792 adopts the time within which the Deed ought to have been recorded.

The Act of 1796 Ch 67 directs that Deeds of Manumission

17898 - 1005

shall be recorded within Six Months, tho it is not so Strong in its expression, as the Act of 1715 Ch 47, which directs that no Land &c shall Pass by Bargain and Sale only, unless the Deed be Acknowledged and Enrolled within Six Months.

The recording however has been Considered so necessary under the Act of 1796, that after the Six Months, a Claim to Freedom under a Deed Could not be Maintained without it - but I apprehend that the former Slave would have a right of freedom from the delivery of the Deed for nearly Six Months, this Subject to be divested by his Neglect to have it recorded within the limited time.

It was argued that the Deed of Manumission Conveyed Nothing - but a Right may be Conveyed or Granted as well as Property; and the Words of the Act are that the Person Possessing a Slave may, by Writing &c Grant him his Freedom.

As to the right of the Parties to bring their Suit which has been Questioned, I Consider their Possession of the Deed to which they were Parties Sufficient for such a Suit, the next Friend being answerable for Costs.

The Grantor, Richard Dawall Gave them a Power to Perfect the Deed by recording - they Neglected to use that Power - But if the Law extends a Remedy to Any and every Deed, it must allow the right

of application for that Remedy to any Grantee therein Named.

Altho the Neglect to record the Deed divested the right which might have been perfected by the Grantee, it May be revived by the provision made for Recording, or the right to Maintain an Action of Ejectment might be lost and recovered.

I Lay out of the Case the length of time between the date of the Deed, and that of the Petition for Recording, and the Allegation of the Grantor Altering his Mind, of which there is no Evidence - And it is then the ordinary Case of a Deed being Unrecorded without any fraudulent intention of the Party Claiming under it, which is always Presumed unless the Contrary is made to appear.

It is the practice also on publication, to decree the Recording of Papers, purporting to be Deeds Acknowledged, without requiring proof of the Actual Execution - the Publication is Certified to the Court in the Usual Way.

The interest in the Persons of the Petitioners, Considered as Property, which is Set up by Some of the Heirs, is not Such as is provided for by the Acts on the Subject.

It is thereupon this 28th Day of July 1817 by William Kilty Chancellor, and by the Authority of this Court, Adjudged, Ordered and Decreed that

Negroes Araminta
Chew & others by
J. Davis their next
friend.

1005

(2)

The Heirs and
Devisees of Richard
Darnall

Copy Decree

Received the 29th day of
July 1817 & filed Recorded:
the same day recorded in
Liber B. No. 3. folios 38, 39, 40
41, 42 & 43 one of the Manumission
record books of Prince George's
County and examined by

Wm S Greenwell

Maryland ss

In Testimony that the aforegoing is a true copy from the Record of proceedings of the State of Maryland's Court of Chancery. I have hereto affixed the Great Seal of said State this Twenty Ninth day of July. One thousand Eight hundred and Seventeen.

Tho H Bowie Reg Curiae

17898 - 1005