

her life time the said Henrietta Magginnical shall in writing require the said Joseph W. Carty to sell the said Lots of ground, he shall sell the same, and pay to the Henrietta Magginnical or her assigns the proceeds of such sale or so much thereof as she shall require, and upon the further trust, that if the said Henrietta Magginnical shall not in her life time direct a sale of the said premises by her writing in the nature of a Will Executed in the presence of at least two witnesses, that the said trust shall cease and determine and the said described premises be and remain the right, property, and estate of the said Joseph W. Carty, his heirs and assigns forever, as will more fully appear, reference being made to a copy of the said deed herewith exhibited marked Exhibit No. 4. ~ Your Complainant further states the said Henrietta Magginnical, in her life time, never did require in writing, the said Joseph W. Carty to sell the said property; Your Complainant further charges that the said Henrietta Magginnical by her will executed in the presence of three witnesses dated on the third day of February in the year Eighteen Hundred and forty eight, did devise all her property, real, personal, & mixed to her son the said Joseph W. Carty for and during his life time, and after his death to his children then living, equally to be divided among them share and share alike ~ All of which matters will be more fully seen by reference to a copy of said Will herewith exhibited, marked Exhibit No. 5. Your Complainant further charges that the said Henrietta Magginnical never did, either by instrument in writing require the said Joseph W. Carty to sell the property described in said deed, nor did she during her life time direct a sale of said premises by an instrument in the nature of a Will; and that said premises vested in fee simple in the said Joseph W. Carty by the provisions of the limitations of said deed marked Exhibit No. 4, and that said Joseph W. Carty died intestate, seized thereof in fee simple. ~ Your Complainant further states that the said Henrietta Magginnical died in the Month of November in the year Eighteen hundred and sixty two without executing the power conferred upon her by said deed in the manner provided therein ~ Your Complainant further states that the said Joseph W. Carty died intestate in the Month of March in the year Eighteen hundred and sixty seven seized in fee of the said lands and premises described in Exhibits No. 1, No. 2, No. 3, and No. 4, filed with this Bill, - and that said lands & premises descended to his children and heirs at Law. ~ Your Complainant further states, that the said Joseph W. Carty left a widow named Mary W. Carty him surviving - and the following children - then living, to wit. Charles P. Carty of full age now residing in Martinsburg West Virginia, and your Complainant Clarence C. Carty, Alton B. Carty, Daisy C. Carty, and Joseph W. Carty, all of whom are infants under the age of twenty one years, and reside in Frederick County State of Maryland. ~ Your Complainants further state that the said Mary W. Carty was duly appointed by the Orphan's Court for Frederick County, Administratrix of the goods and chattels &c of the said Joseph W. Carty deceased, and has filed her duly approved bond, and has entered upon her duties as such Administratrix ~ Your Complainant further charges that the said lots and premises cannot be divided without loss or injury to the parties interested, and that the interest and advantage of all parties will be promoted by a sale of the same, and a division of the proceeds of sale among the parties interested according to their respective rights. ~ Your Complainant charges further that the said Joseph W. Carty in his life time advanced to his son the said Charles P. Carty the sum of three thousand eight hundred and eighty eight dollars and twenty six cents, all of which will appear by a copy of said advancements herewith exhibited marked Exhibit No. 6. ~ Your Complainant further charges that the sum so advanced by the said Joseph W. Carty in his life time to the said Charles P. Carty will far exceed the portion of the real and personal Estate which either of the other children will receive from the estate of their father the said Joseph W. Carty deceased. ~ In tender consideration whereof and to the end that the said defendants hereinafter named may answer the several matters and things hereinbefore stated, and that

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