

No. 4430 Equity

Peter Fogle & others
 vs
 Elizabeth Fogle & others } In the Circuit Court for Frederick
 County

To the Honorable the Judges of the Circuit Court
 for Frederick County, sitting as a Court of Equity.

Petition
 of
 Isaac Iler

The Petition of Isaac Iler of Frederick County respectfully shows unto your Honors, that on the 13th day of November A. D. 1878 the Complainants in the above case filed their Bill of Complaint praying a decree for the sale of the Real Estate described in the proceedings in the above case, which Nicholas Fogle Sen. had died seized and possessed, and alleging that by the last will and testament of said Nicholas Fogle, a copy of which is filed in the above case, marked Exhibit No. 1, said real estate was devised under the residuary clause of said will to Michael Fogle, Nicholas Fogle, Peter Fogle, Margaret Arnold, Susan Phippy, and Catharine Jackson, all of whom with the heirs of said Nicholas Fogle Jr. who was then dead, were made parties to said Bill; that on the 17th day of February A. D. 1879, a decree was passed, as prayed appointing Michael Fogle as Trustee to sell said real estate, and on the 17th day of February A. D. 1880 said Trustee sold a portion of the Land decreed to be sold to your Petitioner at 5 for the sum of thirty six & ²⁵/₁₀₀ Dollars as appears by the Trustee's Report of said sale filed in the above case on the 17th day of February, A. D. 1880.

Your Petitioner further alleges that since said sale he has discovered that Manuel Iler and Lydia^{ann} Iler, his wife, have filed in the Orphans Court for Frederick County a Caveat to the Will of said Nicholas Fogle Sr. alleging the same was procured by fraud and undue influence, and that said Nicholas Fogle Sr. was not capable of executing a valid deed or contract at the time of the execution of said will. Your Petitioner further charges that said Lydia Ann Iler is a daughter of said Nicholas Fogle Sr. and if said will is set aside, as prayed, in said Caveat she will be entitled to an undivided one seventh interest in said real estate, whereas she was not made a party to said proceedings, and such interest, if she should be entitled to the same, would not pass to your Petitioner under said sale. But your Petitioner at the time of said sale supposed, and thought he was buying a clear title to said real estate and was induced so to believe by the representations of said Trustee: that the price at which said property was knocked off to your Petitioner was a fair and reasonable price for the same, and as much as the whole of the same is worth; that your Petitioner is willing to take said property at said price if he can get a good and clear title for the same but he is unwilling to take the same with a doubtful and disputed title, and he was ignorant of any caveat about said will, at the time of said sale. - Wherefore your Petitioner prays your Honors not to ratify said sale to your Petitioner unless he can have a clear title to said property, which he cannot have with said litigation over the validity of said Will pending, and he prays your Honors to vacate and set aside said sale, and relieve your Petitioner from said purchase - And your Petitioner prays the protection of your Honorable Court, and all such Equity and relief to

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