

No. 4293 Equity

At Thoms & others, as Defendants, J. William B. Shelton, Commissioner thereunto appointed, on the 8th day of December A. D. 1877, at my office in Frederick City, Md., in the absence of John E. R. Hoag, Commissioner, then & there proceeded to take the following depositions, to wit:

The Complainants filed with the Commissioner as Evidence "Exhibits Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11" which are herewith returned by said Commissioner.

John A. Toms, a witness of lawful age, produced upon the part of the Complainants, being duly sworn & examined to Interrogatories filed with the Commissioner by the Complainants & herewith returned, deposes and says, to the

1st Int:— I have known them all for some years.

2d Int:— I was. She is dead. She died in Frederick County, Md., about the year 1866.

3d Int:— She was I look at Exhibit No 11, now here shown me. Said Exhibit contains an accurate description of the Land.

4th Int:— She left a husband named Isaac Evans, aged about 70 years, now residing in Frederick County, Maryland.

5th Int:— She left four children as follows, viz: Sarah K., wife of Benjamin J. Johnson, both adults, & both residing in Frederick County, Md. A son Lloyd Evans, whose wife's name is Frances, both adults & residing in West Virginia. A daughter Ellen Laura, who married Samuel A. Thoms, who died about a year ago, adult & residing in Frederick County, Md. and a daughter Mary, who is since deceased, unmarried, & who died about seven years ago, intestate.

6th Int:— She was indebted to Mr. Hardy for medical attendance during her last sickness. W. Benjamin J. Johnson paid said bill & now holds the same against her estate. Exhibit No 1, is the receipt therefor.

7th Int:— She was possessed of little or no personal property, not more than Ten dollars worth & there was no administration on her estate.

8th Int:— She left no will.

9th Int:— W. Benjamin J. Johnson paid them to the extent of "Exhibits Nos 2, 3 & 4" He still holds them against the estate.

10th Int:— W. Benjamin J. Johnson paid some of the Taxes on the Estate, as appears by "Exhibits Nos 5, 6, 7, 8 & 9" The property had been previously sold for taxes & he redeemed it for the benefit of the estate, & I still hold the receipts. The whole cost of the redemption was \$9 00, but W. Benjamin Johnson has no receipt for it.

11th Int:— I look at Exhibit No. 10 now here shown me. The signatures thereto were made, by the parties whom the said Exhibit represents them to be, in the presence of Defendant W. Benjamin J. Johnson.

12th Int:— I advertised the property at Public Sale & incurred costs & expenses in doing so, as follows Advertising \$1 50 & Auctioneer \$2 50 I was to be paid \$15 for my services I sold the property for 275 \$, which was, a good fair price, but Ellen Laura Thoms, who was in possession of the estate at the time, refused to execute & sign a deed, as required by "Exhibit No. 11" & they have also refused to make in any reasonable sale, although often requested to do so. Said Ellen Laura Thoms now occupies the property, and refuses to pay any rent for the same.

13th Int:— It is not susceptible of advantageous division, among the parties interested as the parcels would be too small for advantageous cultivation or sale. Said real estate consists of One and three quarters acres of Land, improved by a Log dwelling house.

14th Int:— It would be for the benefit & advantage of all the parties after payment of claims against said estate, that said Real estate should be sold & the proceeds thereof distributed amongst the parties entitled, because the property is daily deteriorating in value & nobody getting any benefit from

Testimony
of
John A. Toms