

No 4791 Equity

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

The Bill of complaint of John Francis Elder and Mary Elder his wife, and Ephraim Eckeroode and Elizabeth Eckeroode his wife of Frederick County in the State of Maryland, respectfully represents unto your Honors that during the month of October, in the year Eighteen hundred and Seventy nine, one John F. Elder of Frederick County, departed this life seized and possessed of a tract of farm land, Situate lying and being in Frederick County, containing one hundred and Eighty seven and three fourth acres of land more or less, and also a tract of mountain land containing forty one and three fourth acres of land more or less, lying and being in the County aforesaid, which tracts of land as conveyed to the said John F. Elder are fully described in deeds for the same, duly certified copies of which as recorded among the Land Records of Frederick County are herewith filed marked respectively by Exhibits Nos 1 & 2. to the Bill of Complaint, which exhibits, together with all other exhibits by these Complainants herewith filed, they pray may be considered as a part hereof, as fully as if herein inserted in words and figures.

These Complainants further represent and charge that the said John F. Elder left surviving him a widow named Caroline and four children and heirs at law, to wit following. Your Complainants John Francis Elder and Elizabeth Eckeroode, Josephine Elder and Mary Elder, all of whom are yet living, residing in Frederick County with the exception of Josephine Elder, who resides in Baltimore City Maryland, and all of whom are adults over twenty one years of age.

The Complainants further represent and charge that by said last will and testament the lands mentioned in Exhibits Nos 1 & 2. were devised and bequeathed to the said Caroline Elder for and during her natural life only, and after her death they should be divided share and share alike among the above named children; that by the Codicil to said last will and testament, it was provided that the share devised in said last will and testament to your Complainant John Francis Elder should go to your complainant, Mary Elder, subject to a deduction of four hundred and fifty one dollars paid to the said John Francis Elder and it was further provided that the sum of one thousand dollars was devised in fee simple out of said real estate to his said widow Caroline Elder, all of which will appear by reference to Exhibit No 3. that there is no power of sale in said last will and testament authorizing any one to make sale of said real estate, and that it can only be done through the interposition of your Honorable Court.

These Complainants further represent and charge that the said Caroline Elder during the month of April in the year Eighteen hundred and Eighty two departed this life, leaving the above named children as her heirs at law. that she left a last will and testament in which the said sum of one thousand dollars above mentioned was devised and bequeathed to the said Mary Elder, but these Complainants deny that there is yet remaining due at the time of her death to the said Caroline Elder of said devise and bequest the full amount of one thousand dollars, but only about the sum of five hundred dollars, which is yet a charge on said real estate.

These Complainants further represent and charge that said real estate mentioned in Exhibits Nos 1 & 2 on the death of the said Caroline Elder vested in your Complainants Mary Elder wife of John Francis Elder and Elizabeth Eckeroode the said Josephine Elder and Mary Elder as tenants in common, by virtue of the provisions of said last will and testament and the codicil thereto, that said lands cannot be divided among said parties interested without great loss