NO. 8037. Equity.

of the property before the case in No. 8165 is disposed of. It is prayed that the two conflicting decrees might be passed affecting the same property, one for a sale and one for a partition in kind.

Your petitioners therefore pray your Honor that they may be granted leave of your honorable Court to answer, plead and demur to the said Bill of Complaint filed in the above entitled cause to the end that both cases may be fully submitted to the judgment of your Honorable Court.

And as in duty bound.

Glenn N. Worthington
Solicitors for petitioners.

Affidavit

The facts alleged in the foregoing petition sworn to before me this 6th. day August, 1907.

Samuel T. Kaffner
Clerk of the Circuit Court for Frederick County.

Order of Court.

Upon the foregoing Petition and affidavit Court of Court is hereby granted the petitioners to file an answer of complaint within 5. days from the date hereof.

Joshua W. Motter.

6th. August
Filed Aug. 9-1907.

Answer of Sarah Jane Williams.

Filed August 15-1907.

To the Honorable the Judges of said Court:-

The answer of Sarah Jane Williams and John N. Williams, her husband, and Annie and Henry Russell, her children, Mary Angell and William Angell, her husband, Spencer E. Williams and Ollie Williams, his wife, George H. Shater and Julia Shater his wife, and John A. Smith Mortgagee, respectfully shows unto your Honors:- That running the manner of exception to the manifest work and representations of the original bill of complaint, and of the amendments, thereto, as follows:- 1st. That these respondents admit the allegations of the first paragraph of said bill. 2. That these respondents admit the allegations of part of the second paragraph of said bill concerning the death of Joshua Shater in Frederick County, to the daughter and sons of John Shater, but they neither admit nor deny that Exhibit No. 2. is a true copy of the last will and testament of said John Shater. 3. That they deny the allegations of the third paragraph of said Bill to the that Sarah Jane Williams and her children are the life tenants, and remaindermen respectively under said last will and testament of John Shater as to an undivided half interest, as tenants in common with Richard Shater in said real estate mentioned in exhibit No. 1.

4. That these respondents admit that part of the fourth paragraph of said bill of complaint which alleges that Richard Shater is now the owner in fee by purchase, of George H. Shater undivided half interest said real estate; but they positively deny that said Richard Shater is tenant in common with the said Sarah Jane Williams and her children as life tenants and remaindermen respectively as to the whole of said land or as to an undivided one half thereof.

5. That they aver that the allegations of the fifth paragraph of said bill to the effect that said land, consisting of about one hundred and eighty odd more or less is not susceptible of partition or division amongst the parties interested without loss and injury, is wholly inadmissible and contrary, improper and probably under the comments of facts as contained in the said original Bill of Complaint and the amendments and supplements thereto. And further answering said fifth paragraph these respondents deny that it would be to the benefit and advantage of all the parties having an interest therein that said island tract of land be sold under decree of your Honorable Court and the proceeds of sale divided under the direction of your Honorable Court amongst the parties entitled as their interest may appear, thereby the allegations of said bill but it would be a positive detriment to some of them.

6. And answering further said Bill of Complaint these respondents say they admit the allegations of the petition to make John A. Smith, Mortgagee, a party defendant to the proceedings but they neither admit nor deny the allegations of the petition to make paragraph one and one half a part of the Bill of Complaint, and that they deny that original Bill and the several amendments and supplements thereto contain such contradictory and inconsistency that it is impossible to determine the object and purpose of the proceedings or for the Court to pass a decree thereon that will conclude all other proceedings in relation to the same property.

7. These respondents further say that a bill has been filed in No 8165. on the Equity docket of your Honorable Court, that it is essential to the general determination of the claimants in regard to the real estate in question that neither case should be decided independent of the other but that both should be considered together so that the possibility of two conflicting decrees in regard to the same property may be avoided. And these respondents again say that the allegations of the original bill of complaint in this case, and of the several amendments, petitions and supplements thereto contain such jumble of inconsistent and fragmentary facts and of bad law as to render any bill based upon these allegations imperfect, uncertain and obscure. Having fully answered said Bill of complaint, supplements, additions and amendments, your respondents respectfully ask to be hence discharged with their reasonable costs.

And as in duty bound &c. Glenn N. Worthington
Solicitor for respondent.