

10511 Equity.

the other three children, Virginia Hickman, Sarah Smith and Clarence W. Swomley, left the parental home in New Market District, in Frederick County, Maryland, the latter three named children of said Elisha Swomley having married.

3rd. That answering the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh paragraphs in said Bill of Complaint, these Respondents admit the allegations therein contained except in so far as the paper writing admitted to probate as the last Will of Elisha Swomley, deceased, is considered as the last Will and Testament of said Elisha Swomley, deceased, executed in sound and disposing mind and without duress and without undue influence, deceit and fraud.

4th. That answering the twelfth paragraph of said Bill of Complaint, these Respondents admit that the real estate described in said Bill of complaint and in the exhibits filed therewith, is not susceptible or partition without loss and injury to the parties herein, but these Respondents are informed, and therefore aver, that there are more than ten thousand dollars (\$10,000.00) on deposit in the banks of Frederick County to the credit of Elisha Swomley, deceased, and that inasmuch as specified bequeathes aggregating six thousand dollars (\$6,000.00) are included in the aforesaid alleged last Will and Testament of the said Elisha Swomley deceased, these Respondents aver that, before the said real estate is sold and the proceeds distributed, the Complainants should be compelled to give unto the Honorable Court and the Respondents a full and complete accounting of the personal estate of the said Elisha Swomley, deceased, and also a full and complete accounting of the estate of Edgar N. Swomley, deceased.

5th. And these Respondents further say that the said Elisha Swomley, deceased, died at the age of ninety-four years and for many years prior to his death was unable to take care of his property and estate, and to transact any business; that during the whole period of time the Complainants, Ella J. Swomley and Elisha Chalmers Swomley, and their brother Edgar N. Swomley, until his death in 1917, had full charge of the business and affairs and conducted and framed the real estate aforesaid of the said Elisha Swomley, deceased, which contained three hundred (300) acres of ground, more or less, and that no accounting of the income and profits has ever been made by the Complainants to the said Elisha Swomley, deceased, during his life, nor to the Respondents; and these Respondents say that, before the real estate aforesaid is sold by an order of this Court, the said Ella J. Swomley and Elisha Swomley, who have had complete dominion and domination over the said Elisha Swomley, deceased, and control of his business and affairs, and who conducted the farm as aforesaid, should give a full and complete account of their trust and stewardship and should explain clearly and completely whether or not the said real estate has been guarded, protected and conserved and the proceeds and profits conserved during the years that the said Elisha Swomley was unable to take care of his property and estate.

WHEREFORE, these Respondents ask your Honorable Court for the appointment of one or more Auditors to represent the Respondents, as well as the Complainants, to examine the management of the real estate aforesaid by the Complainants and by Edgar N. Swomley, prior to his death, during the years the said Elisha Swomley, deceased, was unable to take care of his property as aforesaid and to report to this Honorable Court before an order is passed for the sale of the real estate described in the Bill of Complaint. And for such other and further relief as the nature of the case may require.

And as in duty bound, etc.

Virginia Hickman
George S. Hickman
Respondents.

(Filed April, 28, 1922)

Edward S. Delaplaine
Charles W. Main
Solicitors for Respondents.