

SIXTH; That the Defendant, Mary E. Sappington, resides in Libertytown, Frederick County Maryland.

SEVENTH; That a certain Daniel H. Filler, late of Frederick County, Maryland, deceased, departed this life, intestate, on or about February 18, 1925, seized and possessed of land, containing eighteen acres, one rood and three perches, together with the improvements thereon, situate, lying and being about two and one-half miles from Libertytown, in Frederick County, Maryland, and which is fully described in the deed from Solomon Filler and Elizabeth Filler, his wife, to said Daniel H. Filler and Ellis Virginia Filler, his wife, bearing date June 7, 1875, and recorded in Liber T.G. No. 3, folio 534, one of the Land Records of Frederick County, Maryland, a certified copy of which said deed is here with filed as part hereof, marked Exhibit No. 1.

EIGHTH; That, immediately upon the death of Ellis Virginia Filler, the entire fee simple title to the said land and premises, above described, devolved upon and vested in the said Daniel H. Filler, who survived his said wife, Ellis Virginia Filler, under the law of Maryland, relating to tenancies by the entireties.

NINTH; That the said Daniel H. Filler, left surviving him, as his only heirs at law, and to whom said property descended, under the Inheritance Laws of Maryland, the following named persons;

- (a) Thomas F. Filler, a son, who is of full legal age, sui juris, and one of the Plaintiffs.
- (b) Harvey C. Filler, a son, who is of full legal age, sui juris, and one of the Plaintiffs.
- (c) George E. Filler, a son, who is of full legal age, sui juris, and one of the Defendants.
- (d) Charles H. Filler, a son, who is of full legal age, sui juris, and one of the Defendants.
- (e) Mollie Cullen, a daughter, who is full legal age, sui juris, and one of the Defendants.
- (f) Amy I. Filler, a daughter, who is of full legal age, sui juris, and one of the Defendants.
- (g) Katie Mercer, a daughter, who is of full legal age, sui juris, and one of the Plaintiffs.

TENTH; That Thomas F. Filler, one of the Plaintiffs not being familiar with law and legal requirements after consulting with his brothers, George and Harvey, and with his sisters, hereinbefore named, and without any Power of Attorney, or other written authorization, under his own name, as "Agent for the heirs of Daniel H. Filler, deceased," advertised, for sale, the aforesaid land and premises, at public auction, to be held Saturday March 14, 1925, causing said advertisement to be inserted in the "Post", a newspaper printed and published in Frederick County, Maryland, as also in large posters of Sale Bills, conspicuously posted in the County, all of which more fully appears in said printed advertisement, herewith filed as part hereof, marked Exhibit No. 2.

ELEVENTH; That on Saturday, March 14, 1925, on the premises, aforesaid, the time and place mentioned in said advertisement, the said Thomas F. Filler, Agent, as aforesaid, then and there sold the said land and premises, unto Calvin Beard, at and for the sum of One Thousand Dollars (\$1000), he being the highest bidder therefor, and this being the best price obtainable, and then and there received from the said Calvin Beard the sum of One Hundred Dollars (\$100), as a deposit upon the purchase price of said property.

TWELFTH; That since the said sale, some of the heirs-at-law, and especially the said Charles H. Filler, and his wife, have refused to execute and acknowledge a deed, conveying the said property unto the said Calvin Beard.

THIRTEENTH; That on the said property there is a first mortgage, for the sum of Five Hundred and Sixty Dollars, executed by the said Daniel H. Filler and Ellis Virginia