

FIRST: That a certain Austin O. Davis, father of your Complainant, Norvel R. Davis, and husband of the Defendant, Annie M. Davis, died on or about the 9th day of February, 1932, leaving a last Will and Testament bearing date September 5, 1910, and recorded in Liber C.H.B. No. 1, Folio 582, one of the Record Books for the recording of wills in the office of the Register of Wills for Frederick County, a certified copy of which is herewith filed marked Exhibit No. 1, to this Bill of Complaint. Said last Will and Testament devised two-thirds of testator's real estate to your Complainant, Norvel R. Davis, and one-third to the Defendant, Annie M. Davis, and named your Complainant, Norvel R. Davis, executor, but contained no power authorizing him to sell and convey said real estate. The Defendant in this case renounced said last Will and Testament, whereby she becomes entitled to one-third of the personal property of which her said husband died seized and possessed and upon her renunciation, took and acquired an undivided one-third interest in said real estate as heir at law instead of devisee under the terms of said last Will and Testament.

SECOND: That said Austin O. Davis, decedent, died seized of several tracts or parcels of land situate in Frederick County, Maryland, both of which being described in a deed from John M. Potter to Austin O. Davis, bearing date March 30, 1920, and recorded in Liber No. 331, Folio 108, one of the Land Records for Frederick County, a certified copy of said deed being filed herewith marked Exhibit No. 2. Said tracts consisting of a farm containing two hundred twenty-eight acres of land, more or less, located on the state road about five miles north of Frederick and a wood lot near Mountindale, Frederick County, Maryland, containing forty acres of land, more or less.

THIRD: That said real estate at the time of the death of the said Austin O. Davis, was encumbered by a mortgage from Austin O. Davis and Annie M. Davis, his wife, to Rudolph M. Rau, to secure the payment of the sum of \$6500.00, recorded in Liber No. 332, Folio 278, one of the Land Records for Frederick County, a certified copy of which is filed herewith marked Exhibit No. 3. And your Complainants are advised that there has been paid on said mortgage several partial payments which do not appear on the record as credits and your Complainants further believe and charge that the personal property of which said testator died seized and possessed will be ample to pay all other debts due and owing by said decedent.

FOURTH: That said real estate is not susceptible of division amongst the parties interested therein and it would be to the benefit and advantage of all of said parties of interest that said real estate be sold under a Decree of your Honorable Court and the proceeds divided between the Complainants and Defendant according to their respective interests.

TO THE END, THEREFORE,

1st. That your Honorable Court may decree the sale of the real estate mentioned in the Bill of Complaint.

2nd. That your Honorable Court will appoint a Trustee or Trustees to sell the same.

3rd. And for such other and further relief as the nature of the case may require.

May it please your Honors to grant unto your Complainants the Writ of Subpoena directed to the Defendant, Annie M. Davis, and Rudolph M. Rau, requiring her to be and appear in your Honorable Court on some day certain to be named therein, and show cause, if any she may have, why the relief prayed for should not be granted.

William M. Storm

(Filed June 22, 1932)

EXHIBIT NO. 1.

I, Austin O. Davis, being in good bodily health, and of sound and disposing mind, remembering the uncertainty of life, do hereby make, publish and declare, this as my last will and testament, hereby revoking all other wills heretofore made by me.

1. I desire all my just debts to be paid and my funeral expenses, as soon after my death as possible.