

George S. Allnutt, being No. 131 Trials, May Term, 1925, in the Circuit Court for Frederick County, a certified copy of which is herewith filed marked Exhibit No. 14, and prayed to be taken and considered as a part hereof, and a further judgment dated June 14, 1937, in favor of the said George S. Allnutt and against the said Arunah I. Fitzsimmons and wife, being No. 174 Trials, May Term, 1937, in the Circuit Court for Frederick County, a certified copy of which is herewith filed marked Exhibit No. 15 and prayed to be taken and considered as a part hereof. That said mortgage of indemnity mentioned and described in the ninth paragraph of this Bill of Complaint and the two judgments above referred to were all given for the sole purpose of securing the said George S. Allnutt against any loss that he, his executors or administrators might sustain in the event of the failure of the said Arunah I. Fitzsimmons and Lucy C. Fitzsimmons, his wife, to pay said promissory note to the Citizens National Bank of Frederick, Maryland, one of the defendants to this cause.

ELEVENTH: That the said John I. Fitzsimmons and Mattie M. Fitzsimmons, his wife, on the 3rd day of January, 1925, borrowed from Noah E. Cramer the sum of Fourteen Hundred Fifty Dollars and in order to secure the payment of said loan executed and delivered to the said Noah E. Cramer their deed of mortgage conveying unto him all of their right, title, interest and estate in said mortgaged property, being an undivided one-ninth interest in the real estate hereinbefore described, as will more fully appear by reference to said mortgage dated January 3, 1925, and recorded in Liber No. 351, folio 13 &c., one of said Land Records, a certified copy of which is herewith filed marked Exhibit No. 16, and prayed to be taken and considered as a part hereof. That the said Noah E. Cramer died in September, 1930, intestate; that Letters of Administration have been issued on his estate to his son, James H. Cramer, who resides in Frederick County, Maryland, and to his daughter, Katherine C. Winebrenner, who resides in Philadelphia County, Pennsylvania, as will appear by reference to a certificate of their appointment, herewith filed, marked Exhibit No. 17, and prayed to be taken and considered as a part hereof.

TWELFTH: That a partition of the aforesaid real estate among the parties entitled thereto, according to their several interests therein, as hereinbefore set forth, cannot be made without loss or injury to them, and that it is to the benefit and advantage of all of the parties in interest that said real estate be sold and the proceeds of sale be divided among the parties entitled thereto according to their respective rights and interests therein.

WHEREFORE, Your Complainants pray your Honorable Court to decree a sale of the aforesaid real estate and to appoint a trustee or trustees to make sale thereof under the direction and control of your Honorable Court, and distribute the proceeds arising therefrom among the parties entitled thereto according to their respective rights and interests.

And that your Complainants may have such other and further relief as the nature of the case may require.

And may it please your Honors to grant unto your orators the Order of Publication giving notice to the said Katherine C. Winebrenner, administratrix, of the estate of Noah E. Cramer, who resides in the City of Philadelphia, in the County of Philadelphia, in the State of Pennsylvania, and to William Thomas Allnutt, surviving executor of the last Will and Testament of George S. Allnutt, deceased, who resides in Cumberland County, in the State of Pennsylvania, both of whom are non-residents of this State, of the object and substance of this Bill of Complaint, and warning them to be and appear in this Court, in person or by solicitor, on or before a certain day to be named therein, to show cause, if any they have, why a decree ought not to be passed as prayed; and also the Writ of Subpoena against the said Carrie C. Holtz, widow, James H. Cramer, Administrator of the estate of Noah E. Cramer, deceased, both of whom reside in Frederick County, Maryland, and The Citizens National Bank of Frederick, Maryland, a body corporate, commanding them and each of them to be and appear in this Court, in person or by solicitor, on some day