

leaving a large estate, and four children his devisees, *Sarah, Ann, Mary* and *Catherine* ; that the trustees appointed by the will of the testator, all refused to take upon themselves the trust, and were then dead ; that no trustee to carry into effect the object of the will had ever been appointed by any competent authority ; that *Sarah* married, and afterwards died, leaving the plaintiff *Araminta*, her only child and heir ; that *Ann* and *Mary* had married, and afterwards died without issue ; that *Catherine* married the defendant *John*, and was since dead, leaving these infant defendants her children, and heirs at law ; that after the death of *Ann* and *Mary*, the defendant *John Diffenderffer* took the property so devised, into his possession, as the estate of the three infant defendants, his children, and had ever since received the rents and profits thereof. Whereupon these plaintiffs by their bill prayed, that a division of the estate, so devised might be made among the legal representatives of the devisees of the testator, *Charles Rogers*, according to their respective interests ; and also, that the defendant *John Diffenderffer* might account for the rents and profits ; and that they might have such other relief as the nature of the case might require, &c.

The defendant *John Diffenderffer*, by his answer, admitted, that *Charles Rogers* had made his will and died, leaving a large estate, and four daughters as set forth in the bill ; that *Sarah* had died leaving the plaintiff *Araminta*, her only child, who had married the other plaintiff *William* ; that this defendant had married *Catherine*, who was then dead, leaving the three other defendants, her children and heirs, who were all then minors ; that the trustees, appointed by the testator *Charles Rogers*, had refused to undertake the trust, in consequence of which, an application had been made to this court, and a trustee appointed, as set forth in the proceedings in the case of *Rogers v. Merryman* ; that this defendant had, from time to time, received from the trustee *Vincent*, sums of money, on account of the distributive share due to his wife ; and there remained a large balance due to her ; whilst the other parties received considerable sums more than was due to them ; that *Ann Martin* died on the 5th of May, 1807 ; and *Mary Lee* on the 21st of January, 1808, both without issue ; that, at the request of the trustee *Vincent*, this defendant had taken possession of the property on Calvert and Baltimore streets ; and also of sundry ground rents in the city of Baltimore, which he had a right to do under the will, after the death of *Ann* and *Mary*, whereby the estate survived to his children, the heirs of *Catherine* ; that he