

to there being few cases in which all the witnesses were to be found in, or could be brought before a master in *Annapolis*, where the

household furniture, negroes and sheep, had been delivered to the plaintiff, without any misrepresentation, at a fair valuation; that the mulatto fellow Ned, the property of the plaintiff, was an ordinary carpenter and cooper, from whom the defendant received no other benefit than from an ordinary slave; that the defendant had possession of the plaintiff's personal estate for about five years and three months, that is, from the time of the defendant's marriage with the plaintiff's mother until he came of age, and paid the quit rents of his lands in St. Marys, but never during his possessing them, received any more than £13 18s. 3d. and 4376 lbs. of pork; that of the plaintiff's lands in Anne Arundel a part was seated, whereon the defendant had negroes who were employed in making crops, and another part on which his overseer's wife lived: but that this defendant never was at but one of the said tracts of land; that the plaintiff's lands in Prince George's, were not seated or ever seen by the defendant; that he does not know that there ever was any seated plantation on the plaintiff's lands in Baltimore county; that for the plaintiff's lot in Huntingtown, the defendant had received the hire of about 1200 lbs. of tobacco; and that this defendant had a right to the occupation and profits of the plaintiff's lands without accounting for the same.

At May court, 1736, the plaintiff put in a general replication to this answer, and the defendant rejoined; and so, the parties being at issue, divers witnesses were examined and their depositions published according to the course of the court, the master in chancery made a return as follows:

'In pursuance of an order of the Court of Chancery, bearing date the 25th day of May, in the year of our Lord 1736, I have proceeded to examine Thomas Sanner of St. Mary's county, planter, James Biscoe of the same county, planter, James White, of the same county, planter, John Gaines of Calvert county, planter, Josias Sunderland of the same county, planter, James Dukes of the said county, planter, Samuel Griffin of the same county, planter, Francis Gaines of the same county, planter, Walter Phelps of Anne Arundel county, planter, and Jonathan Taylor of the same county, planter, as witnesses for the complainant, whose examinations, together with the interrogatories filed by the complainant in this cause, hereunto annexed. I humbly return into this honourable court. B. YOUNG, *Master in Chancery.*'

Here follow the depositions of sundry witnesses taken, as stated, before this master in chancery, which, as appears by his attestation to each, were taken at different times and places. At St. Mary's county, the 20th day of April, 1737—same place, 21st April, 1737. At Calvert county, the 17th day of September, 1737—and at Annapolis, the 22d and 29th day of October, 1737—upon all which the case was brought before the court.

2d June, 1738.—OGLE, *Chancellor.*—This case coming on to be heard and debated in presence of counsel learned on both sides, the complainant's bill and the defendant's answer, and the whole proceedings thereon being read, it appeared to be as before recited and set forth.

Whereupon this court doth *Decree*, that the defendant account for the rents and profits of the complainant's real estate which the defendant received, and which were lost by his act and neglect; and also, for the profits which might have been made by the service and earnings of the mulatto man called Ned, mentioned in the proceedings; and that all just allowances be made to the defendant for his disbursements on the complainant's account, for which the defendant has not already received