216 Va. 562
SUPREME COURT OF VIRGINIA
RECEIVED
APR 28 1975
RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 741180

FANNIE E. WALKER

V.

H. ELIZABETH CLEMENTS, IRMA C. HORSLEY,
RUBY HALL APSLEY, BERNICE HALL WILLIAMS,
EDWARD HAMMON HALL, ELLEN VIRGINIA HALL BROWN,
BARBARA ANN HALL WEST, HANSFORD HALL, JR.,
DOROTHY HALL QUILLIAN, EVERETT W. BROOKS AND MAXWELL HALL

APPENDIX

JAMES B. MARTIN
Martin, Hicks & Ingles, Ltd.
Gloucester, Virginia 23061

HARRY A. MORRIS, JR.
Gloucester, Virginia 23061

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VIRGINIA: IN THE CIRCUIT COURT OF GLOUCESTER COUNTY:

FANNIE E. WALKER

Complainant

v. (Chy. No. 2139 - 3/14/72

BILL OF COMPLAINT

H. ELIZABETH CLEMENTS
Gloucester, Virginia

IRMA C. HORSLEY
c/o Mrs. Betty C. Kayton
4641 Lookout Road
Virginia Beach, Virginia

RUBY HALL APSLEY
Locust Hill
Middlesex County
Virginia

BERNICE HALL WILLIAMS
Gloucester, Virginia

HARVEY M. HALL
Mizpah Nursing Home
Locust Hill
Middlesex County
Virginia

EDWARD HAMMON HALL
Zanoni, Virginia

ELLEN VIRGINIA HALL BROWN
3031 Purdon Drive
Jacksonville, Florida

BARBARA ANN HALL WEST
Zanoni, Virginia

HANSFORD HALL, JR.
Zanoni, Virginia

DOROTHY HALL QUILLIAN
Toano, James City County
Virginia

EVERETT W. BROOKS
3419 Applejack Terrace
Augusta, Georgia

MAXWELL HALL, if living, a former resident of Gloucester County, Virginia, who is believed to have removed to the State of Maryland many years ago, or if he be dead, then the widow and heirs, devisees and successors in title of Maxwell Hall, son of Bernard Hall, who are made parties defendant by the general description of parties unknown,

Defendant

TO THE HONORABLE JOHN E. DeHARDIT, JUDGE OF THE SAID COURT:

Your Complainant respectfully shows the following:

1. That, by affixing their signatures to a deed dated July 11, 1946, of record in the Clerk's Office of the Circuit Court of Gloucester County, Virginia, in Deed Book 79, page 179, the owners of that certain tract or parcel of land described, as follows:

> All that certain tract or parcel of land, lying and being in Petsworth Magisterial District, Gloucester County, Virginia, containing, according to the Land Book of Gloucester County, Two Hundred Seven (207) acres, more or less, shown and designated as Parcel 210 on Section 38 of the Land Maps of Gloucester County, Virginia, and shown on said Land Maps to be bounded on the North by the land of Palace Hall and State Route No. 688; on the East by the land of Joseph Leo Bond and E. Louise Bond and the land of Thomas M. Brooks Lumber Company and Haynes Pond; on the South by Haynes Pond; on the West by land of Charlie Benjamin Carter, the land of Nathaniel T. Jones, the land of L. O. Dudley and the land of Marie Hall Winfree,

Confirmed that the percentage and extent of ownership of each party at that time was as follows:

(a) Albert T. Hall - one-third undivided interest

(b) Lewis M. Hall - one-third undivided interest

(c) Henrietta H. Lawson - one-sixth undivided interest

(d) Melvin B. Horsley - one-sixth undivided interest

2. That, Lewis M. Hall died on November 30, 1954, and by his Will, admitted to probate in the Clerk's Office of the Circuit Court of Gloucester County, Virginia, and of record in Will Book "O", page 353, provided as follows:

> "I give, devise and bequeath all of my property, real personal and mixed and wheresoever situated to my brother, Albert T. Hall, for and during his life, with the right to dispose of same absolutely during his life time, and at his death, I give, devise and bequeath all of said property which has not been disposed of by him, to my sister, Henrietta M. Lawson, and brother-in-law, Emmett H. Lawson, in fee simple."

3. That, Emmett H. Lawson departed this life on February 28, 1952, thereby predeceasing Lewis M. Hall.

4. That, the said Lewis M. Hall was survived by the following:

Fannie E. Walker ..... Sister
Albert T. Hall ..... Brother
Malvin B. Horsley ... Son of Florida Horsley, deceased sister of Lewis M. Hall

Ruby Hall Apsley]
Bernice Hall Williams] Surviving children of Ira Hall,
Harvey M. Hall] deceased brother of Lewis M. Hall
Edward Hammon Hall]

Ellen Virginia Hall Brown] Children of Hansford Hall,
Barbara Ann Hall West] deceased son of Ira Hall.
Hansford Hall, Jr.]

Dorothy Hall Quillian] Children of Bernard Hall,
Everett W. Brooks] deceased son of Ira Hall.
Maxwell Hall]

5. That, Henrietta M. Lawson, departed this life on June 11, 1958, and by her Will, admitted to probate in the Clerk's Office of the Circuit Court of Gloucester County, Virginia, and of record in Will Book "Q", page 199, provided as follows:

> "I want all my property, real estate, money and bonds to go to my brother, Albert T. Hall, to use as he sees fit. At his death I want what ever is left to be divided equally between my sister, Fannie Walker, and my nephew, Malvin Bernard Horsley. In the event that either is already deceased then I want it all to go to the one left."

6. That, Malvin Burnit Horsley, died January 19, 1961, survived by his wife, Irma C. Horsley; see, List of Heirs, recorded in Will Book "S", page 137, in the Clerk's Office of the Circuit Court of Gloucester County, Virginia.

7. That, Albert T. Hall, departed this life on January 15, 1969.

8. That, there may be persons interested in the subject to be divided whose names are unknown, as alleged in the caption after the name of the Defendant, Maxwell Hall.

9. That, Irma C. Horsley, at this time, is a furloughed patient from Eastern State Hospital.

WHEREFORE, your Complainant prays that partition of the real property be made by the Court in this cause in one of the modes prescribed by law, and if such be impracticable that the property be sold by the Court in this cause and the proceeds divided amongst those entitled thereto, and all such other relief as to equity may seem meet, and the nature of this cause may require.

FANNIE E. WALKER

By Harry A. Morris
Counsel

Harry A. Morris
Martin, Hicks & Morris, Ltd.
Attorneys at Law
Gloucester, Virginia

VIRGINIA: IN THE CIRCUIT COURT OF GLOUCESTER COUNTY

Fannie E. Walker,	)	
	)	
Complainant	)	
	)	
v. (Chy. No. 2139-3/14/72)	)	ANSWER
	)	
H. ELIZABETH CLEMENTS, ET ALS,	)	
	)	
Defendants	)	

For answer to the bill of complaint, the defendant, H. Elizabeth Clements states the following:

1. That she admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 of the bill of complaint.

2. That Albert T. Hall died testate on January 15, 1969, seized and possessed of an undivided 5/6th interest in and to the real property described in said bill of complaint, and under the terms of his will he devised said interest to your defendant.

3. That your defendant presently owns an undivided 5/6th interest in the real property described in said bill of complaint.

4. That other than the defendant the only person having an interest in the real property which is the subject matter of this suit, is Irma C. Horsley, who has an undivided 1/6th interest in and to said property.

5. That the complainant, Fannie E. Walker, has no interest in the real property which is sought to be partitioned, and therefore, has no legal standing to institute this partition suit.

WHEREFORE, your defendant prays that the pending bill be dismissed at the cost of the complainant, or in the alternative, that

the interest of your defendant be determined to be an undivided 5/6th interest.

H. ELIZABETH CLEMENTS

By s/ Raymond H. Suttle
Of counsel

I certify that a true copy of the foregoing answer was mailed to Harry A. Morris, Martin, Hicks & Morris, Ltd., Gloucester, Virginia 23061, attorneys of record for the complainant, this 27th day of March, 1972.

s/ Raymond H. Suttle
Raymond H. Suttle

VIRGINIA: IN THE CIRCUIT COURT OF GLOUCESTER COUNTY:

FANNIE E. WALKER,

Complainant

v. (Chancery No. 2139 - 3/14/72)

H. ELIZABETH CLEMENTS, et als

Defendants

DECREE OF REFERENCE

This cause, which has been regularly matured, set for hearing and docketed, came on this day to be heard upon the Bill of Complaint taken for confessed as to Ruby Hall Apsley, Bernice Hall Williams and Harvey M. Hall, resident defendants, who have been regularly served with process, twenty-one days having elapsed since service and they still failing to appear, plead, answer or demur; upon the answers of H. Elizabeth Clements, Irma C. Horsley, Edward Hammon Hall, Ellen Virginia Hall Brown, Barbara Ann Hall West, Hansford Hall, Jr., Dorothy Hall Quillian, Maxwell Hall, and Catesby G. Jones, Jr., Guardian ad Litem for Irma C. Horsley, a furloughed patient from Eastern State Hospital; upon proper proof of the due execution of the Order of Publication against Everett W. Brooks, non-resident defendant, ten days having elapsed since the completion thereof and he still failing to appear; and was argued by Counsel.

On consideration whereof the cause is referred to Henry D. P. Jones, one of the Commissioners in Chancery of this Court, who will inquire and report as follows:

1) Who are the owners of the tract or parcel of land described in the Bill of Complaint, and in what proportions.

2) What liens are against the property, their priorities, and by whom held.

3) What is the fee simple and annual value of the real property.

4) Whether the real property is susceptible of partition in kind amongst

the owners in any of the modes prescribed by law; and if not

5) Whether any of the owners is willing to take the whole property and pay to the others such sums of money as their interests may entitle them to; and if not

6) Whether the interest of those who are entitled to the subject or its proceeds will be promoted by a sale of the entire subject and division of the proceeds; and if so

7) Whether the proper parties are before the court in this cause to enable the court to effect such sale.

8) Any other matter, specially stated, which the Commissioner may deem pertinent or which any party may request to be so stated.

But before proceeding to execute the reference the Commissioner shall give notice as required by law of the time and place fixed for executing the same.

I Ask for this:

Harry A. Morris p.q.

Seen:

[illegible]

[illegible]

Bruce Glenn
atty for Irma C Horsley

Charles H. Roberts Jr.
atty for Dorothy Hall Quillian and
Lincoln Hall

[illegible]

[illegible]

[illegible]

Harry A. Morris, atty for Edward Hammond Hall

ENTER this 30 day of [illegible], 1972;

[illegible], JUDGE.

Chancery Order Book 20, page 146.

VIRGINIA

IN THE CIRCUIT COURT OF GLOUCESTER COUNTY

FANNIE E. WALKER

v. (Chancery No. 2129) COMMISSIONER'S REPORT

H. ELIZABETH CLEMENTS, et al

TO THE HONORABLE JOHN E. DeHARDIT, JUDGE OF SAID COURT:

Pursuant to a decree of your Honor's court entered on the 30th day of November, 1972, I gave notice to counsel of record in this cause and to the Guardian ad Litem for Irma C. Horsley, that on the 20th day of February, 1973, at 10:00 a.m. in the Courtroom of the Circuit Court of Gloucester County, Virginia, I would proceed to execute the said decree. Notice of the taking of depositions and acceptance of service of the same by counsel of record and by the Guardian ad Litem is herewith returned.

I attended at the time and place so appointed and in the presence of Harry A. Morris and James B. Martin, counsel for complainant; Raymond H. Suttle and Harry J. Kostel, counsel for H. Elizabeth Clements; Bernard Glasser, counsel for Irma C. Horsley; Ernest N. Hudgins, counsel for Ellen Virginia Hall Brown and Hansford Hall, Jr.; Charles H. Rideout, Jr., counsel for Dorothy Hall Quillian and Maxwell Hall; and Catesby G. Jones, Jr., Guardian ad Litem for Irma C. Horsley, I took the depositions of Fannie Ann Elizabeth Walker, Charles J. Kerns, Henrietta Elizabeth Clements and Irma C. Horsley and said depositions are herewith returned, together with ~~a~~ memoranda of law submitted by counsel. After consideration of the same, together with

pleadings in this cause and from examination of the records in the Clerk's Office of this court, I respectfully report as follows:

(1) The owners of the tract or parcel of land described in the Bill of Complaint, and the proportions in which they own the same are as follows:

(a)	Irma C. Horsley	6/30	or	108/540
(b)	Fannie E. Walker	12/30	or	216/540
(c)	H. Elizabeth Clements	11/30	or	198/540
(d)	Ruby Hall Apsley	1/180	or	3/540
(e)	Bernice Hall Williams	1/180	or	3/540
(f)	Harvey M. Hall	1/180	or	3/540
(g)	Edward Hammon Hall	1/180	or	3/540
(h)	Ellen Virginia Hall Brown			1/540
(i)	Barbara Ann Hall West			1/540
(j)	Hansford Hall, Jr.			1/540
(k)	Dorothy Hall Quillian			1/540
(l)	Everett W. Brooks			1/540
(m)	Maxwell Hall			1/540
				540/540

The determination of the proportions of ownership as set forth above involves the construction of the wills of Lewis M. Hall and Henrietta M. Lawson. The will of Lewis M. Hall, who died on November 30, 1954, and whose will is recorded in the Clerk's Office of this court in Will Book O, Page 353, devised all of his property to his brother, Albert T. Hall, for and during his life with the absolute right to dispose of the same, and the property not disposed of was

devised in remainder to Henrietta M. Lawson and Emmett H. Lawson. Section 55-7 of the Code of Virginia, 1950, as amended, would apply to the terms of this will and result in a life estate in Albert T. Hall, with remainder to Henrietta M. Lawson and Emmett H. Lawson. However, Emmett H. Lawson predeceased the testator without issue and, in the opinion of your Commissioner, his share went to the heirs of Lewis M. Hall as set forth in the Bill of Complaint. It should be noted that under paragraph 4 of the Bill of Complaint the name of Henrietta M. Lawson should be added as a sister of Lewis M. Hall.

The construction of the will of Henrietta M. Lawson is a more difficult matter. In this will the testator provides in part as follows:

> "I want all my property, real estate, money and bonds to go to my brother, Albert T. Hall, to be used as he sees fit. At his death, I want what ever is left to be divided equally between my sister, Fannie Walker, and my nephew, Malvin Bernard Horsley. In the event that either is already deceased, then I want it all to go to the one left."

In the opinion of your Commissioner, these words create a life estate only in Albert T. Hall. This is not a devise in general terms with an attempt thereafter to limit the devise by a remainder over. It is simply the creation of a life estate. In the case of Roller v. Shaver, 178 Va. 467 (1941) the court construed the word "use" and held, quoting other cases, "indeed only the right to use and enjoy the benefit of the corpus is implied by the word 'use'."

In the case of Bristow v. Bristow, 138 Va. 67 (1924) on an appeal from the Circuit Court of Middlesex County, the court construed the will of Joseph A. Bristow. In this will the testator left property to

his wife "to use as she pleases" and the court held that this conferred on the devisee only an estate for life. In the opinion of your Commissioner, the words in the will of Henrietta M. Lawson "to use as he sees fit" are not a devise in general terms, but indicates the intention of the testatrix that Albert have unrestricted enjoyment of the property during his life.

The words "what ever is left..." do indicate that some portion of the estate may not exist at the death of Albert, however, since both personal property (tangible and intangible) and real estate are disposed of by the will, these words could well refer to the fact that some of the personal property would be consumed during Albert's lifetime. Uuder this construction these words would not apply to the real estate.

This has the effect of allowing the remainderman to take whatever is left which certainly appears from the whole will to be the result which the testatrix intended and avoids the application of an arbitrary rule of law to reach a result which seems strained. It is noted that the testatrix stated that she did "not want a lawyer called in to handle this, but I want everyone to know that the wishes expressed above are my very own and are to carried out as stated here." Your Commissioner submits that the result reached herein comes closest to carrying out the wishes of the testatrix.

(2) Your Commissioner finds liens against the subject property as follows:

(a) Real estate taxes for the year 1973 and subsequent years are a lien against the whole property.

(b) A judgment against the share of Hansford Hall in favor of Dr. Raymond S. Brown and Dr. William B. Brown, partners, entered December 13, 1972, docketed January 12, 1973, in Judgment Lien Docket Book 12, page 111, in the amount of $405.00 with interest and costs.

(c) Judgments against the share of Edward Hammond Hall as follows:

(i) Judgment in favor of Northern Neck Tire and Recapping Company, Inc. against Ed. Hall, Trading as Hall's Atlantic Service, entered March 27, 1968, docketed May 29, 1968, in Judgment Lien Docket Book 11, page 131, in the amount of $202.50 plus interest and costs.

(ii) Judgment in favor of Southern Bank of Norfolk against Edward Hall, Jr. and Mildred Hall and Edward Hall, Sr. entered September 2, 1969, docketed September 8, 1969, in Judgment Lien Docket Book 11, page 176, in the amount of $20,367.84 plus interest, attorney's fees and costs.

(3) The fee simple value of the subject property is $288,653.50. The annual value of the property is $2,700.00.

(4) In the opinion of your Commissioner the real property which is the subject of this suit is not susceptible to partition in kind. This conclusion is not entirely borne out by the evidence as Mr. Kerns, the witness who testified on this subject, stated that on the basis of six shares the property could be conveniently divided in kind, although it would take some engineering to arrive at this (Page 35 of the transcript). Also, it would require construction of roads (Page 36). In paragraph (1) of this report your Commissioner conclued that the prop-

erty would be divided into shares as small as 1/540 and in view of this, and in view of the disproportionate values of the timber, pond site and improvements on the property your Commissioner finds that the propety cannot be conveniently divided in kind. Also, your Commissioner took into account the requirements of the Gloucester County Subdivision Ordinance which, if any of the parcels resulting from the partition in kind were less than five acres, would require construction and paving of roads to state highway department specifications and considerable engineering and surveying costs for plats and road plans. As an alternative, your Commissioner finds from the evidence that the property could be divided in kind if shares (d) through (m) as set forth in paragraph (1) of this report were laid off together in one parcel.

(5) Your Commissioner finds that none of the owners are willing to take the whole property and pay to the others such sums of money as their interest may entitle them to.

(6) Your Commissioner finds that the interest of those who are entitled to the subject property would be promoted by a sale of the entire subject and division of the proceeds.

(7) Your Commissioner finds that the proper parties are before the Court in this cause to enable the court to effect such sale.

Notice to counsel of record of the return of this report as required by § 8-256 of the Code of Virginia, 1950, and Rule 2:18 (c) of the Rules of Court have been given this day.

Respectfully submitted,

/S/ Herbert I. L. Feild
Commissioner in Chancery

Gloucester, Virginia
November 16, 1973

Commissioner's fee $1,200.00

Court Reporter, Biggs Reporting Service $165.00

V I R G I N I A

IN THE CIRCUIT COURT OF GLOUCESTER COUNTY

FANNIE E. WALKER,	:	
Complainant	:	
	:	EXCEPTION TO THE REPORT OF THE COMMISSIONER IN CHANCERY
v.	:	
H. ELIZABETH CLEMENTS, et als,	:	
Defendants	:	

Exception taken by H. Elizabeth Clements, one of the parties defendant hereto, to the report of Herbert I. L. Feild, Commissioner to whom this cause was referred by Decree previously entered herein and which Report bears date on the 16th day of November, 1973.

First: That the undersigned, H. Elizabeth Clements, does except to that portion of the said Commissioner's Report finding that the owners of the tract or parcel of land described in the Bill of Complaint and the proportions in which they own same are as follows:

(a)	Irma C. Horsley	6/30 or 108/540
(b)	Fannie E. Walker	12/30 or 216/540
(c)	H. Elizabeth Clements	11/30 or 198/540
(d)	Ruby Hall Apsley	1/180 or 3/540
(e)	Bernice Hall Williams	1/180 or 3/540
(f)	Harvey M. Hall	1/180 or 3/540
(g)	Edward Hammon Hall	1/180 or 3/540
(h)	Ellen Virginia Hall Brown	1/540
(i)	Barbara Ann Hall West	1/540
(j)	Hansford Hall, Jr.	1/540
(k)	Dorothy Hall Quillian	1/540
(l)	Everett W. Brooks	1/540

(m)	Maxwell Hall	1/540
		540/540

The undersigned contends that the owners of the tract or parcel of land and the proportions in which they own same should have been reported as follows:

(a)	H. Elizabeth Clements	Undivided	22/30
(b)	Irma C. Horsley	Undivided	6/30
(c)	Fannie E. Walker	Undivided	1/30
(d)	Heirs of Ira Hall	Undivided	1/30
			30/30

WHEREFORE, the said Defendant doth except to the said report of the said Commissioner and prays that her said exception may be sustained, and that the said report may be corrected in the manner indicated by said exception.

H. ELIZABETH CLEMENTS

By Harry J. Estes
Of Counsel

I do hereby certify that a copy of the foregoing Exception was this 28th day of November, 1973, mailed to all counsel of record.

Harry J. Estes
Of Counsel

V I R G I N I A :

IN THE CIRCUIT COURT OF GLOUCESTER COUNTY

FANNIE E. WALKER,	:	
Complainant	:	
v.	:	CHANCERY NO. 2129
H. ELIZABETH CLEMENTS, et als,	:	
Defendants	:	

D E C R E E

This cause came on this day to be heard upon the papers formerly filed, together with the Report of the Commissioner in Chancery and Exception filed thereto on behalf of H. Elizabeth Clements, and it appearing to the Court that none of the parties to this cause except the said H. Elizabeth Clements have taken exception to the Report of the Commissioner in Chancery, and it further appearing to the Court that the only portion of the Commissioner's Report to which the said H. Elizabeth Clements did except was that portion of said Commissioner's Report finding that the owners of the tract or parcel of land described in the Bill of Complaint and the proportions in which they own same are as follows

(a)	Irma C. Horsley	6/30	or 108/540
(b)	Fannie E. Walker	12/30	or 216/540
(c)	H. Elizabeth Clements	11/30	or 198/540
(d)	Ruby Hall Apsley	1/180	or 3/540
(e)	Bernice Hall Williams	1/180	or 3/540
(f)	Harvey M. Hall	1/180	or 3/540
(g)	Edward Hammon Hall	1/180	or 3/540
(h)	Ellen Virginia Hall Brown		1/540
(i)	Barbara Ann Hall West		1/540
(j)	Hansford Hall, Jr.		1/540
(k)	Dorothy Hall Quillan		1/540

(l)	Everett W. Brooks	1/540
(m)	Maxwell Hall	1/540
		540/540

and it appearing to the Court that the Exception to the report filed by H. Elizabeth Clements prays that the owners of the tract or parcel of land and the proportions in which they own same should have been reported as follows:

(a)	H. Elizabeth Clements	Undivided	22/30
(b)	Irma C. Horsley	Undivided	6/30
(c)	Fannie E. Walker	Undivided	1/30
(d)	Heirs of Ira Hall	Undivided	1/30
			30/30

Upon Consideration Whereof, the Court is of the opinion that the Exception of H. Elizabeth Clements to the Report of the Commissioner in Chancery should be sustained and the Court doth ADJUDGE, ORDER and DECREE that the Exception of H. Elizabeth Clements be, and the same hereby is, sustained and the Court doth further ADJUDGE, ORDER and DECREE that the owners of the tract or parcel of land described in the Bill of Complaint and the proportions in which they own same, be and they hereby are as follows:

(a)	H. Elizabeth Clements	Undivided	22/30
(b)	Irma C. Horsley	Undivided	6/30
(c)	Fannie E. Walker	Undivided	1/30
(d)	Heirs of Ira Hall	Undivided	1/30
			30/30

No other exceptions having been taken to the Report of the Commissioner in Chancery, it is ADJUDGED, ORDERED and DECREED that the said Report be and it hereby is confirmed except as hereinabove corrected and modified.

Counsel for Fannie E. Walker excepted to the ruling of the Court in sustaining the exceptions of H. Elizabeth Clements and to this Decree of the Court changing the proportions of ownership as determined by the Commissioner in his report as being contrary to the law and the evidence.

ENTERED: This 1 day of [illegible], 1974.

Judge

We ask for this:

Jones, Blechman, Woltz & Kelly, p.d.

By [illegible]
Harry J. Kostel, Counsel for
H. Elizabeth Clements

Have seen and objected to:

[illegible]
Harry A. Morris, Counsel for
Complainant, Fannie E. Walker

[illegible]
Harry A. Morris, Counsel for
Defendant, Edward Hammon Hall

Have seen and not objected to:

[illegible]
Bernard Glasser, Counsel for
Defendant, Irma C. Horsley

[illegible]
Charles H. Rideout, Jr., Counsel
for Dorothy Hall Quillian and
Maxwell Hall, Defendants

[illegible]
Ernest Newton Hudgins, Counsel
for Helen Virginia Hall Brown,
Barbara Ann Hall and Hansford
Hall, Jr., Defendants

[illegible]
Catesby G. Jones, Jr., Guardian ad
Litem for Defendant, Irma C. Horsley

Chancery Order Book 20, pages 409-410

VIRGINIA: IN THE CIRCUIT COURT OF GLOUCESTER COUNTY

FANNIE E. WALKER,	:	
Complainant	:	
v.	:	In Chancery No. 2139
H. ELIZABETH CLEMENTS, et al	:	NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
Defendants	:	

TO: Charles E. King, Jr., Clerk
Circuit Court of County of Gloucester
Gloucester, Virginia

Kindly take notice that the Complainant hereby notes an appeal from the Decree entered in this cause on August 2, 1974, by the Judge of the Circuit Court of Gloucester County, Virginia.

ASSIGNMENT OF ERROR

The Complainant assigns the following error to the Decree of the Court entered on August 2, 1974:

1. The Court erred in interpreting the Will of Henrietta M. Lawson to give fee simple title to land in her estate to her brother, Albert T. Hall, as opposed to an interpretation which would have given a life estate only to Albert T. Hall, with remainder to Fannie E. Walker, the appelant; the error was manifested in the Court's sustaining the objection of H. Elizabeth Clements, Defendant, to the report of the Commissioner in Chancery, filed in this matter on the 16th day of November, 1973, and ordering that the owners of the tract or parcel of land involved in this cause and the proportions in which they own the same as reported by the Commissioner in Chancery should be altered from the following:

(a)	Irma C. Horsley	6/30
(b)	Fannie E. Walker	12/30
(c)	H. Elizabeth Clements	11/30
(d)	Heirs of Ira Hall	1/30
making a total of		30/30

to reflect the following proportions of ownership:

(a)	H. Elizabeth Clements	22/30
(b)	Irma C. Horsley	6/30
(c)	Fannie E. Walker	1/30
(d)	Heirs of Ira Hall	1/30
making a total of		30/30

2. The decision of the Court is contrary to the law and the evidence.

3. There will be no transcript, statement of facts, or other incidents of the case to be hereafter filed.

FANNIE E. WALKER

Harry A. Morris

By Counsel

Harry A. Morris

Harry A. Morris
Martin, Hicks & Morris, Ltd.
Box 708
Gloucester, Virginia 23061

I certify that pursuant to Rule 5:6 of the Rules of the Supreme Court of Appeals of Virginia, a true copy of the above notice of Appeals and Assignments of Error was on the 30th day of August, 1974, mailed to:

Harry J. Kostel
Counsel for H. Elizabeth Clements
Jones, Blechman, Woltz & Kelly
2600 Washington Avenue
First & Merchants National Bank Building
Newport News, Virginia 23607

Bernard Glasser
Counsel for Defendant, Irma C. Horsley
Glasser & Glasser
504 Plaza One
Norfolk, Virginia 23510

Charles H. Rideout, Jr.
Counsel for Dorothy Hall Quillian and Maxwell Hall, Defendants
Stephens, Rideout, Abdelnour & Rials, Ltd.
(formerly Zepkin, Stephens & Rideout)
P. O. Box 276
Williamsburg, Virginia 23185

Ernest Newton Hudgins
Counsel for Helen Virginia Hall Brown, Barbara Ann Hall
and Hansford Hall, Jr., Defendants
Mathews
Virginia 23109

Catesby G. Jones, Jr.
Guardian ad Litem for Defendant, Irma C. Horsley
Gloucester
Virginia 23061

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Harry A. Morris

I, Henrietta Margie Hall Lawson, a lifetime resident of Gloucester County and being of sound mind and realizing the uncertainty of life, do hereby make my Will as follows. First, I want all expenses, caused by illness or by my death, to be paid from money or estate left by me at my death. I also want a marker placed at my grave like the one placed at my husband's grave. Second, I want all my property, real estate, money and bonds to go to my brother, Albert T. Hall, to use as he sees fit. At his death I want whatever is left to be divided equally between my sister, Fannie Walker and my nephew, Malvin Bernard Horsley. In the event that either is already deceased then I want it all to go to the one left. I do not want a lawyer called in to handle this but I want everyone to know that the wishes expressed above are my very own and are to carried out as stated here.

I want Malvin Bernard Horsley to serve as administrator without bondsmen. In case of his death Albert T. Hall shall serve in the same capacity without bondsmen.

Signed by me on this twenty eighth day of May, 1955.

I, LEWIS M. HALL, of Short Lane, in the County of Gloucester, and State of Virginia, being of sound and disposing mind and memory and considering the uncertainty of life, do hereby make this my Last Will and Testament, hereby revoking all former Wills, by me at any time made.

FIRST: I desire all my just debts to be paid.

SECOND: I give, devise and bequeath all of my property, real, personal and mixed, and wherever situated to my Brother, Albert T. Hall, for and during his life, with the right to dispose of same absolutely during his life time, and at his death, I give devise and bequeath all of said property which has not bee disposed of by him, to my sister Henrietta M. Lawson and brother-in-law Emmett H. Lawson, in fee simple.

THIRD: I hereby nominate and appoint my said brother-in-law, Emmett H. Lawson, Executor of this my Last Will and Testament, and request the Court or Clerk before whom he may qualify not to require security on him as such.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 15th. day of February, 1950.

Witness
s/ B. B. Roane

Lewis M. X his Hall (SEAL)
Lewis M. Hall mark

Signed, sealed, published and declared by Lewis M. Hall, as and for his Last Will and Testament, in the presence of us, who in his presence, at his request, and in the presence of one another, have hereunto subscribed our names as witnesses.

s/ B. B. Roane — Gloucester, Va.

s/ Geo. E. Cary — Gloucester, Va.

I, Albert T. Hall, of Gloucester County, Virginia, being of sound and disposing mind, do hereby make, publish and declare this to be my last will and testament, revoking all wills by me at any time heretofore made.

First: I desire that all my just debts to be paid.

Second: I give, devise, and bequeath the sum of one thousand ($1000.00) dollars in cash to my sister Fannie E. Walker.

Third: I give, devise and bequeath all of the entire balance of my estate, of every nature and description, whatsoever, consisting of real, tangible, personal and mixed, to my cousin, H. Elizabeth Clements, in fee simple.

Fourth: I hereby nominate and appoint my said cousin, H. Elizabeth Clements, executrix of this my last will and testament, and direct that she be allowed to qualify and perform all duties as executrix without bond or surety.

Given under my hand and seal this the 5th day of August 1966.

his
X
Albert T. Hall mark

Witness to his mark.
s/ John Hall
s/ E A Bunting
s/ Cephas Horsley

The above signature of the testator was made and the foregoing will was acknowledged to be his last Will and Testament by the Testator in the presence of us, three competent witnesses, present at the same time; and we, the said witnesses do hereunto subscribe the said will on the date last above written, in the presence of the said Testator and of each other, at the request of the said Testator, who was then of sound mind and over the age of twenty-one years.

s/ John Hall s/ E A Bunting s/ Cephas Horsley