

Washington Co., Virginia Ended Chancery Causes 1876-043

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Transcribed/abstracted 2013 by Diana Powell, www.ramblingroots.com

[Jacket Cover]

Mary G. Cunningham, Committee & c	}	
vs	}	Bill
Sarah Jane Walden & others	}	

1872	Feb	Rule Bill filed
1872	March	Rule for answer
1872	April	___ confirmed & set for hearing
1872		order leave to file answer _____
1872		_____
1873	April	decree setting up Deed & ___
1874	Jan	May continued
1874	Oct	
1875	Jan	May Con & Oct con
1876	Oct	_____

[Complaint – transcribed – paragraphs added for ease of reading]

To the Hon. John A. Kelley, Judge of the Circuit Court for Washington County.

The Bill of complaint of Polly (alias Mary G.) Cunningham, who sues as committee and next friend of Janet Buchanan, would respectfully show unto your honor that on the 29th day of March 1869 the said Janet Buchanan entered into an agreement with a certain Sarah Jane Walden by which she undertook to rent to the said Walden for her (Janet Buchanan's) life time all the land she inherited from her father, Samuel Buchanan. The terms of this agreement will appear from a paper (A) filed herewith and prayed to be taken as part of this bill.

That on the 5th of April 1869 the said Janet Buchanan executed a deed conveying in fee simple the above mentioned tract of land unto the said Sarah Jane Walden and her children, namely, Joel R., James L., Mary C., Sarah E., Samuel L.J. and Almeda Walden, for and in consideration of one dollar to her in hand paid, with the stipulation at the end of the instrument that the said article of agreement was made a part of the deed. This will appear from a paper marked (B) filed here with and prayed to be taken as part of this bill

Your oratrix would further show that she is the sister of the said Janet Buchanan and that the said Janet Buchanan has been a woman of very feeble intellect from her childhood, that her memory is very imperfect and that she has little, if any, reasoning power, that on this account she has been easily influenced and imposed upon by designing persons, that

she is now in her 61st year of age and that for the past five or six years her mind has been growing still feebler, and that at the time of making the aforesaid contract she was almost entirely devoid of ____.

Your oratrix would further show that for some time previous to the execution of the aforesaid agreement and deed the said Sarah Jane Walden was very kind to, and frequently entertained the said Janet Buchanan at her house and made her believe, as far as she could understand, that she was going to make an arrangement with her to support her for her life. And that the said Walden finally persuaded the said Buchanan to go with her to the house of one Mitchel B. Tate in the County of Smyth, which Tate, under the direction of the said Sarah Jane Walden, wrote the said deed and agreement. It will be seen upon inspection that the agreement and deed were acknowledged before a Magistrate in Smyth County, and your Oratrix would represent that both parties reside in Washington County and that said Sarah Jane Walden gave the said Janet Buchanan no copy of the said deed and agreement, but had them recorded without your oratrix or either of said Buchanans sisters seeing either the said agreement of deed or knowing anything of their contents, but they were informed by the said Sarah Jane Walden that she had bought the said Buchanan's land and was to support her during her life.

Your oratrix would further show that the said Janet Buchanan had prior to this transaction some two or three hundred dollars of personal property, mostly in money and bonds and that this has nearly all been spent in making, under the direction of the said Sarah Jane Walden, the repairs upon the "Old House" and in building the addition thereto for the said Janet Buchanan to live in.

Your oratrix would further show that these repairs were made, and the addition built, by one B.F. Brown who married a kinswoman of the said Sarah Jane Walden, that the lumber was furnished by one Robt S.C. Hutton, a kinsman, and hauled, at \$5 a load for hauling, by one Samuel J. Hutton the reputed father of the aforesaid Sarah Jane Walden – all at prices exhorbitant [sic].

Your oratrix would further represent that the said Sarah Jane Walden and her children aforesaid moved into the "Old House" mentioned in the deed aforesaid about the time, or soon after, the agreement and deed were executed, and that after they had gotten firmly into possession the said Sarah Jane Walden began such an unkind course of treatment as finally to compel the said Janet Buchanan to leave her home and seek refuge with and support from her sisters. She now has nothing, and the said Sarah Jane Walden and her children enjoy her property – for nothing.

It will be seen, by your Honor upon an inspection of the paper marked (A) and (B) that all the consideration the said Janet Buchanan was to get for her property was to have her wood cut and her milling done (having to buy her wood elsewhere) and was to have 1/3 of all grain etc. raised upon the place; the place was to be sewn ____ in grass at the rate of 5 acres per year and, as not ____ than 15 acres of land is cleared, after the 3rd year all she can get is 1/3 of all the grass on the place, and this only during the life time of the said Sarah Jane Walden. Your orator would represent that all the consideration that has passed

to the said Janet Buchanan is one small stack of hay, and this was eaten by the said Sarah Jane Waldens stock, the said Janet Buchanan has owned no stock since the 5th of April 1869.

Your oratrix is advised that the aforesaid agreement and deed are voidable 1st because one of the parties thereto, Janet Buchanan, was incompetent to make a contract for want of sufficient reas____

2ndly. because there was fraud in their procurement.

3rdly because there is want of valuable consideration

Being without remedy at law and relievable only in equity – the prayer of your Oratrix is that the said Sarah Jane Walden and those of her children aforesaid who were of age at the time of the execution of the aforesaid deed and agreement be made parties defendant to this bill and be required to answer the same truthfully on oath and that your Honor by your decree declare the said agreement and deed null and void and set the same aside and put Your oratrix, as committee of the said Janet Buchanan into possession of the property mentioned in this bill, and require the said Sarah Jane Walden to account for the rents and profits of the same, that proper process may be directed against the several defendants – herebefore named, and that your oratrix as committee may have all such farther and other and general relief as the equity of this case may require.

Baxter & Langley for Complainant

[Decree Cover]

Mary G. Cunningham, Committee & c	}	
vs	}	Decree
Sarah Jane Walden & others	}	

Enter ____

Apl 17/75

[Decree abstract]

The court ordered that since the defendant had failed to answer the charges they were taken as confessed. Therefore the court ordered that the agreement of 29 March 1869 between Janet Buchanan and Sarah Jane Walden was null and void, and the deed executed on 5 April 1869 by Janet Buchanan to Sarah Jane Walden was to be set aside. The land was to be returned to the plaintiff as committee of Janet Buchanan and the plaintiff was to recover her costs extended in the cause, which was continued.

[Additional document - transcribed]

Mary G. Cunningham, Committee & c	}	
vs	}	In Chancery
Sarah Jane Walden & others	}	

On motion of the Plaintiff it is ordered that this cause be stricken from the docket

[Summons - abstract]

11 Jan. 1872: Sarah Jane Walden and her children Joel R., James L., Mary C., Sarah E., Saml L.J. and Almeda Walden were ordered to appear at the February session of the court to answer the complaint filed by Polly Cunningham Committee & next friend of Janet Buchanan

[Appointment of Mary G. Cunningham as Committee for Janet Buchanan – abstract]

27th day of February 1872: Mary G. Cunningham be appointed Committee for Janett Buchanan a person of unsound mind; \$500 bond posted with Seldon Lougley [Longley], William A. Davis & Robert A. Brown as her security.

[Agreement between Janet Buchanan and Sarah Jane Walden – transcribed]

An agreement made this 29th day of March 1869 between Janet Buchanan of the first part and Sarah Jane Walden of the other part both of Washington County and state of Virginia.

Witnesseth that the said Janet Buchanan on her part rents to the said Walden all her land that was recently laid off to her (by the commissioners appointed for the purpose) belonging to the estate of Samuel Buchanan dec'd during her (Janet Buchanan's) lifetime in the following way and manner to wit, That is the said Buchanan is to live in the old house until Christmas or 25th day of December 1869 with said Walden, she the said Buchanan procuring her own supplies for support, against which time time [sic] the said Buchanan binds herself to build herself a house on the premises in which to move by the 25th Dec'r 1869 and also to make some repairs on the old house during the spring and summer of 1869 – The said Walden on her part binds herself to buils a stable[,] corn crib, and spring house and do all the necessary fencing during the same time – The said Walden on her part binds herself to do all the milling and wood hauling for the said Buchanan for which the said Buchanan allows the use of the house and garden to the said Walden and it is further agreed that the said Buchanan furnishes all the grass seed to sow the entire plantation, that is to say as much as will sow about 5 acres per year until the whole is sown to labor of which is to be performed by the said Walden – The said Walden is to cultivate the land, and to pay to the said Buchanan one third of the product of all grain etc raised upon it – Each party mutually agrees & binds herself to have no other stock upon the premises except that which belongs to themselves.

Given under our hands & sealed the day and date above written

Janet Buchanan {seal}
Sarah Jane Walden {seal}

Smith [sic] County to wit

I John Faris a justice of the Peace of said county do certify that Janet Buchanan and Sarah Jane Walden of Washington County whose name is signed to the within agreement bearing date the 5th day of April 1869 has acknowledged the same before me in my county aforesaid.

Given under my hand this the 6th day of April 1869

John Faris J.P.

In the Clerk's office of the county court of Washington the 22nd day of Sept. 1869 the foregoing agreement between Janet Buchanan and Sarah Jane Walden was delivered to Leonidas Baugh deputy clerk of said county on the day above mentioned and admitted to record.

Test
Leonidas Baugh D.C.
Copy
Test
David C. Cummings D.C.

[Deed – abstract]

5 April 1869: Janet Buchanan of Washington Co., VA to Sarah Jane Walden and her children viz Joel R., James S., Mary C., Sarah E., Samuel L.J. & Almeda Walden, for \$1, 18 acres, 3 rood and 17 poles of land in Washington Co. adjoining land of E. Longley and bounded..... [for metes and bounds see WCV Deed Book ____] ... land was laid off for Buchanan in division of estate of Samuel Buchanan, dec'd. Deed incorporates terms of agreement between Janet Buchanan and Sarah Jane Walden dated 29 March 1869.

Janet Buchanan

Agreement acknowledged by John Faris, JP of Smyth Co., VA

Deed recorded 21 Sept. 1869 in Washington Co. VA