Hall Family Papers and Sugar Plantation Records

1709 - 1892

MSS.220

Ca. 1747: Case involving the property of Patience Hall - Opinion by Robert Penny

Case

Hon. W. Addy Govr. Opinion
respecting Pitman Keller
claim

Case

75-423 A

King Charles the Second by Letters Patent bearing Date the 8th June 1671 Did Grant Unto William Walker and William Fryth and their heirs all that parcell of Land Containing one hundred and Twenty Acres Situate Lyeing and being near the Black River Mouth in the parish of St Elizabeth bounding West Northerly and Northeasterly on Mrs Ann Toft. Southerly on Morass and Black River, and Southwest on the Sea. To hold to them their heirs and assignes for Ever.

Vide Patent.

William Walker Dyed before Fryth without Severing the Jointure and left Jane his Widow who Intermarried with one Edward Ray, and also a Daughter named Patience,

William Fryth, in whom the Estate in Law was Vested by Survivorship afterwards by his Deed Poll Dated 3d October 1672 without any Valuable Consideration therein expressed, Did Sell Alien assign and Sett over Unto said Edward Ray his heirs and assignes Ninety Acres of said One hundred and Twenty Acres that is to say half an Acre at the Rivers Mouth, and the rest as Agreed, Upon to be laid out by Colonel John Vassall upon Square Lines from the Sea side Upwards. To hold to him his heirs Executors Administrators and Assignes for Ever on a Condition expressed in the said Deed, that the said Edward Ray Should Deliver said Land Into the possession of her the said Patience Walker Daughter of said William Walker, when she Should be of Age, or to pay her Fifty pounds Sterling

Vide Deed Lib 1. fol 222

Edward Ray afterwards went off this Island and Dyed without Issue, never having Conveyed the Estate to said Patience Walker, or paid her the Fifty Pounds Sterling,

William Fryth afterwards by his Deed Poll bearing Date 20th May 1685, reciting the Above Patent and Deed that neither of the aforesaid Conditions were performed, said Patience Walker having been Long Ago of Age and Edward Ray having been Severall Years of the Island and not heard of Did for those Considerations and in Consideration of Fifty pounds to him paid by Thos Hall who Intermarried with said Patience Did Give Grant Bargain alien Confirm and Sell Unto said Thomas Hall and Patience his Wife or their heirs and Assignes the Premises in Question To hold to them and their heirs for ever,

Vide Deed Lib 16th fol 204

Thomas Hall and Patience his wife by their Deed of the 3d October 1687 reciting as therein is recited in Consideration of the sume of One hundred and Eighty pounds Did Grant the said Two parcells of Land (the Premises in Question) to Henry Reed in fee.

NB. This Deed was proved before a proper Judge, but No Acknowledgement Appears to have been made by the said Patience that the same was Executed Voluntarily and without the Coercion of her husband, nor is there any receipt for the Consideration money

Thomas Hall and wife are both Dead and Left Issue William Hall their heir at Law

Quer

What Estate Patience Hall had in the premises by Virtue of the Above Deeds and how far the same was affected by the Deed of the 3d October 1687,

I apprehend that Patience Hall never had any Estate in the premises. Fryth by his very irregular Deed of the 3d Oct 1672, Conveys to Edward Ray in fee; there is a Recital in the Deed, preceeding the Granting part, that Ray had obliged himself

to Deliver ye Land to Patience, when she sho^d be of Age; or pay her sixty Pds
wch I apprehend will not amo^t to a Condition, or Limitation, of the Legal
Estate: but remaine a meer Executory Agreem^t if Ray did not pay the sixty
Pounds, wch only a Court of Equity could Execute: And Fry the could not enter
in Rays non performance as for the breach of a Condition, so that Fryths
Deed of the 20 May 1685 I look on as Void, the Title being in Ray.

If the legall Estate had passd to Thos Hall p Patience by Fryths Deed
of the 20th May 1685, they would have taken a Jointenancy, and the Deed of
the 3 Octr 1687 would I apprehend, have enured as a Conveyance of Thos
Halls Moety, p sovered that Jointure, but that Mr Halls interest would
not have passd by that Deed, she being Covert p not having acknowledg
that Deed pr fect would have descend, to her Heir at Law; But then the possion
ensueing on that Deed - tho it would not Barr Mr Hall were she living
on Acco^t of her Coverture; Yet the Acts for quieting possions will Barr
the Heir unless he can bring himself within some of the provises wch
I apprehend Mr Hall can't Do.

B N Pemb