



Estate & Chancery Court concerning Farmer Edwards of Little Hinton

Farmer Edwards was baptised 26 June 1735 and buried 2 October 1808, aged 73 years at St Swithun, Little Hinton

1808

LITTLE HINTON, WILTS

NOTICE to DEBTORS AND CREDITORS

All persons who are indebted to the Estate of **FARMER EDWARDS**, late of Little Hinton, in the county of Wilts, yeoman, deceased, are requested to pay such Debts immediately to Messrs. Crowdy and Son, solicitors, Highworth, to whom all persons having any Demands on the estate of the said Farmer Edwards, are desired to send an account thereof forthwith. Nov 22, 1808

Salisbury and Winchester Journal 28 November 1808

1828

PURSUANT to a Decree of the High Court of Chancery made in a Cause "Edwards v Fidel" the Creditors of **JAMES EDWARDS**, of Little Hinton, in the county of Wilts, Farmer, who died in the month of April, 1813, are by their solicitors on or before the 1st day of November next, to come in and prove their debts before James Trower, Esq. One of the masters of the said Court, at his Chambers, in Southampton Buildings, Chancery Lane, London: or in default there of they will be peremptorily excluded the benefit of the said Decree.

Salisbury and Winchester Journal 11 August and 8 September 1828

Back ground to this news snippet

COURT OF EXCHEQUER AND EQUITY

EDWARDS v. EDWARDS

FARMER EDWARDS, deceased, holding certain copyhold lands for lives, under the Dean and Chapter of Winchester, as lords of the manor of Honiton, in the county of Wilts, agreed to surrender the same, for the purpose of substituting two new lives for two of the original lives. The proposed lives were those of John and James Edwards, who were his great nephews. Farmer Edwards having paid part of the consideration money, died; and the agreement was carried into execution by James Edwards, his brother and personal representative, who paid the residue of the consideration money. James Edwards died, and under his will the present plaintiff, Edward Edwards, claimed the property, and took possession of part of it. John Edwards took possession of the other part; and also brought an action of ejectment to recover the part which was in the possession of Edward, alleging an intention of Farmer Edwards to provide for his great nephews; and also alleging a custom in the manor, that after the death of a tenant in possession of an estate holden of the manor for lives, the next life reversion for which the estate is holden shall be entitled to enjoy the estate.

The present bill was filed to restrain the action, and the plaintiff had obtained the common injunction.

Right column side remark

25th May 1836.

Quare, whether it is a good and reasonable custom that upon the death of a tenant in possession of lands holden of a manor for lives, the next life to reversion for which the estate is holden shall be entitled to enjoy the estate; and if such custom be good and reasonable, whether, where a party takes a grant of such lands for the life of himself and his grand nephews and dies, the grant shall operate as an advancement for the grand nephews, so as to rebut a resulting trust in favour of other parties claiming under the purchaser.

Mr Spence, for the defendant, now moved to dissolve the injunction, the defendant having put in his answer. He also submitted, that as the custom under which the defendant claimed could not be disputed, the Court would give him the immediate benefit of a judgment, so as to enable him to establish his legal title for the purposes of this suit, without the expense of prosecuting the action.

The legal title of the defendant was recognised in *Edwards v. Fidel* (a). This is a question of equity; namely whether the defendant can rebut the resulting trust of which the plaintiff claims to have the benefit. It conceded that the onus of rebutting that resulting trust rests upon the defendant.

Mr Tenant, contra. The defendant has no equity, for he admits that he never paid a farthing for the property, and no legal title, because the custom set up is unreasonable and bad. The case of *Edwards v. Fidel* is overruled by *Lewis v. Lane* (b).

Mr Spence, in reply. *Edwards v. Fidel* was only cited as recognising the legal title of the Defendant. The opinion there given as to the validity of a custom which excludes resulting trusts, is not relied upon here; for it is admitted that the defendant must rebut the resulting trust. *Taylor v. Alston* (c) will probably govern the sent case. [The *Lord Chief Baron*. The customs in Wiltshire are peculiar. That which you state is a curious one, for it precludes the common law right of holding in joint tenancy.]

The Lord Chief baron. I cannot, under present circumstances, consent to allow the defendant the benefit of the judgment; but, as the title at law is disputed, I see no reason why I should preclude him from going to trial. Therefore, the injunction must be dissolved as to that; but let there be an injunction to stay execution till the question in equity is settled.

- (a) 3 Madd. 237.
- (b) 2 M. & K.449.
- (c) 2 Cox, 96, cited.