

## APPEALS TO THE PRIVY COUNCIL.

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Ellis, dec<sup>d</sup>, Cha. Seymour and W<sup>m</sup> Nedham, surv. Ex'ors of Henry N., Respondents.

## The Appellant's Case.

Daniel Peyton, esq., of J. became indebted to App. in a large sum, in 1755 came to G. B. where he died Jan. 1757, having made his will 5 Oct. 1756, and gave his est. to the Resp. J. N. and W. O. upon trust to sell, beginning with his land in the parish of St George called *Tobacco Ridge*. O., who resided in England proved the will in the P.C.C.,\* and J. N. who resided in J. obtained letters testamentary there. App., not having been paid, brought his action in the Supreme Court Nov. 1757 and obtained judgment for £1,672. Testator had been his co-partner. The est. in J. was only £2,853 and insufficient to satisfy claims. An injunction was granted 21 Aug. 1758 to stay the App. from which he appealed to H.M. in C. To be heard July 1760.

## The Respondents' Case (J. N. and W. O.).

29 Apr. 1748, Agreement between D. P. and Henry Nedham £1,000 to survivor. 14 March 1755, Bond from D. P. to Resp. Nembhard in £786. Details of judgments. (Add. MS. 36,218, fo. 64.)

W<sup>m</sup> Beckford, Rose Fuller and Julines Beckford, late of J. now of L., esquires, surviving ex'ors of Geo. Ellis the Elder, late of J., esq., dec<sup>d</sup>, Appellants. Rob. Halhed, esq., s. resid. leg. and adm'or with will annexed of R<sup>d</sup> H., esq., dec<sup>d</sup>, Respondent.

## The Appellants' Case.

In 1730 Geo. Ellis was seised of a large pl<sup>a</sup> in the parish of St Tho. in the Vale called *Rio Flora* or the *Water-work* of 1,200 acres with works, slaves and cattle, and R<sup>d</sup> Halhed, the Respondent's father, desired to purchase a moiety, whereupon, 16 Nov. 1730, £6,600 c. was to be paid for it out of the profits and Ellis opened an account against him. 5 July 1738, a balance of £1,256 only was still due and Geo. Ellis then executed a conveyance and died Aug. 1741.† His Ex'ors discovered an error of £1,000 in the account and R<sup>d</sup> H. gave his bond for it 11 July 1745 and died July 1755, having made his will of which adm'on was granted 25 Oct. 1756 to Robert his son and residuary legatee. No subsequent accounts have been settled and over £5,000 c. is due. On 3 March 1758 App. filed their Bill in the C<sup>t</sup> of Ch<sup>y</sup>. Resp. disputed the account.

17 Feb. 1759. It was decreed that the Bill be dismissed. The App. appealed to H.M. in C. In writing in margin: "Geo. Ellis son and heir of testator came of age 9 or 10 years ago. His brother John since his decease has had the management of their family affairs." To be heard 1760. Endorsed "Decree reversed."

## The Respondent's Case.

30 June 1738. Geo. Ellis and Ann his wife conveyed the moiety. (Add. MS. 36,218, fo. 72.)

Andrew R<sup>d</sup> and John Denn late owners of the schooner *Nelly*, App. Horatio Herbert Dep. Collector of the Customs for Charles Town in Nevis, Resp.

As to seizure and sentence 15 Oct. 1757 by the Judge of the Court of V. Admiralty. Judgment on appeal reversed 1760. John D. late of Ireland. And. and R<sup>d</sup> Denn of Gibraltar, merchants. (Add. MS. 36,218, fo. 78.)

\* [62, Herring.]

† Buried at St. Cath. 26 March 1740-1. See Livingston's Sketch Pedigrees, p. 43, which from a Bill of 1766 of Halhed v. Barton gives a good pedigree of Ellis.