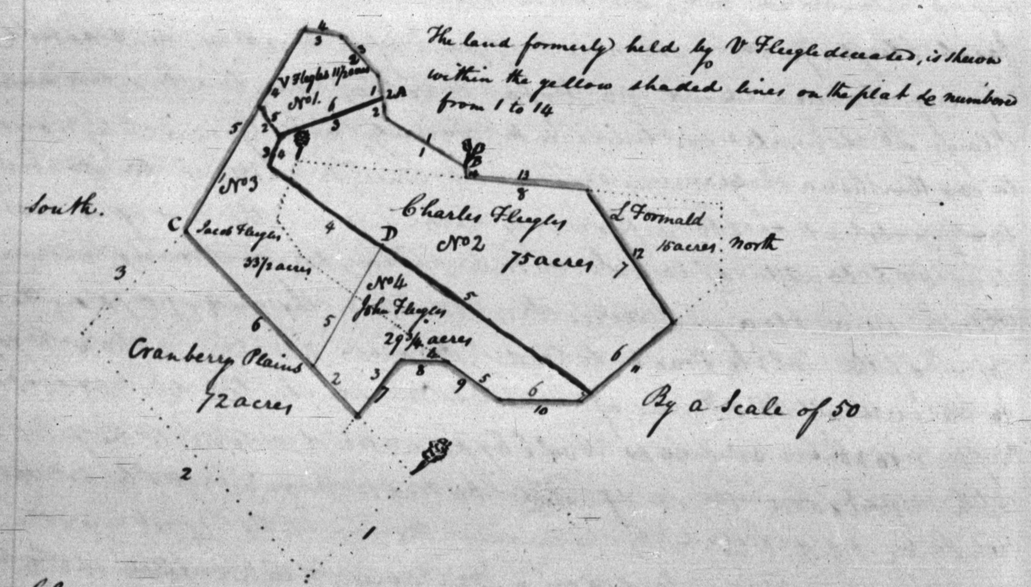
day of November 1762 then reversing the lines of said 50 acres and bounding thereon 2 courses 3 N 52° W 34 ps 4 North 24 ps to the end of 89 ps on the 5 line of the whole tract called Spring Garden then running with and bounding on said line 3 courses 5 N 34° E 31 ps 6 North 40 ps 7 N 41° W 5½ ps to the end of the 5th line of Charles Fleegles lot aforesaid then reversing said line and bounding thereon to the first mentioned place of beginning containing 29¾ acres of land more or less

EE John Wampler DSFC: August 24th 1809

Valentine Fleegles Lot	No 1	measures 11½ acres
Charles Fleegles Lot	No 2	measures 75 acres
Jacob Fleegles Lot	No 3	measures 33½ acres
John Fleegles Lot	No 4	measures 29¾ acres
The four parts together measures		149¾ acres.



Charles Fleegle, Valentine Fleegle, Jacob Fleegle & John Fleegle
agt
Lawrence Burkhart and Mary Burkhart

In Chancery February Term 1810.

This suit being on the trial docket was argued at the present term by the counsel for the complainants, and notes in writing were filed by the counsel for the defendants.

The original bill was against Valentine Fleegle the father of the complainants and on his death the proceedings have been revived against Mary Burkhart his devisee and her husband Lawrence Burkhart.

The bill alleges that Valentine Fleegle the father being seized of three tracts of land therein named and being aged and having lost his wife determined to make a settlement on the complainants of the said land.

That in pursuance of the said determination he had a survey made and himself marked and set up stones round the different parts assigned to them respectively and put them in possession thereof a plat of which is exhibited

That this division was not intended by the parties as solely a permission to have the possession but was designed as a gift out of natural love and affection

That they retained the possession for many years and on the faith of the said gift made valuable improvements

That he repeatedly assured them that he would convey the said land to them but their situation as children made them forbear to press him on the subject - and that after they had continued for many years to enjoy the said land he was after his second marriage induced to quarrel with them and that he turned them out of possession: The prayer is that the said Valentine the father may convey to them in fee their respective parts of the said land according to his contract &c.

This case must be determined on the same principles as it would have been in the life time of the original defendant. It appears by his answer that he opposed the claim set up and he has not suffered the land to descend to the complainants and his other children but has made a disposition of it by will which he had a right to do, supposing the gift as alleged not to be established.

The principles laid down by the late Chancellor in the cases of Brown and Brown, Sanders and Simpson and several others appear to have been overruled by the appellate Courts in their reversal of the decrees in the two first cases, and it may be that according to their decisions, natural love and affection would be a sufficient consideration without any other to induce this Court to decree the execution of the contract as stated but there is not sufficient evidence to satisfy the chancellor that such a contract was entered into and that Valentine the father did make the gift or promise to make the conveyance as is alledged.

It is expressly denied in his answer and when it is considered that he had no other land and that the sons if they had succeeded in this suit in his life time would have taken all his