

Partnership real estate.—How far land acquired by a partnership for partnership uses and held as part of its funds is liable to the charge of **5** dower as being real estate, vested in the husband during* coverture, has been much discussed. Chancellor Bland's opinion seems to have been (see 5 Gill, 1, *Goodburn v. Stevens*,) that the real estate owned by a partnership was to be considered as converted for all purposes into personalty, and consequently not liable to dower. But the Court of Appeals decided otherwise. The Court said: "We consider it now established, that the whole partnership estate, consisting of real or personal property, is to be regarded in the view of a Court of Equity, as a consolidated fund to be appropriated primarily and exclusively to the satisfaction of the partnership engagements." "But when all the claims against the partnership have been satisfied, the partnership account adjusted and the object of the trust fulfilled, in a case where the partners have not either by an express or implied agreement indicated an intention to convert their lands into personal estate, no solid reason can be assigned why the real estate should not be treated in a Court of Equity as at law according to its real nature, and consequently chargeable with the widow's dower." In that case there were no articles of partnership between the deceased husband and his associates, and the Court held that the day of his death was to be treated as the period of the dissolution of the partnership, and the accounts should be taken to that time for the purpose of ascertaining the condition of the property. Consistently with this decision it was determined in the further progress of the suit, that the widow's dower was to be measured by the value of her husband's interest in the real estate of the partnership at the time of his death, after the claims of the creditors of the partnership were satisfied, 1 Md. Ch. Dec. 420.⁵

Equitable estates.—By the Act of 1818, ch. 193, sec. 10, it was enacted that widows shall be entitled to dower in lands held by equitable title in the husband, "*unless the same be devised by a will made before the passage of this Act, but such right of dower shall not operate to the prejudice of any claim for the purchase money of such lands, or other lien on the same.*" This section is re-enacted in the Code Art. 45, sec. 5,⁶ with the omission of

has retained title, or conveyed it. *Ellicott v. Welch*, 2 Bl. Ch. 242; *Price v. Hobbs*, 47 Md. 359; *Venable's Real Property* 22, note 30.

Where the vendee at the time of a conveyance to him executes a contract creating an equitable lien or charge on the land for the purchase money, such contract does not, like a legal mortgage, divest the legal title and seisin under the deed. There is a legal and unconditional seisin in the vendee which is beneficial and for his sole use and his widow is dowable. But the lien thus created, having its inception in the contract of purchase, is paramount to dower, and, as against those claiming the benefit of the lien under the contract, the widow is only dowable after the full discharge of the lien. *Price v. Hobbs*, *supra*.

See now as to vendors' liens the Act of 1910, ch. 216, (Code 1911, Art. 66, secs. 31-38.)

⁵ As to what is partnership real estate, see *Union Bank v. Mechanics' Bank*, 80 Md. 371.

⁶ See note 10 *infra*.