

*sing vs. McPherson*, 3 *Johns. Ch. Rep.*, 424, petitions to vacate enrolled decrees were filed, and were considered by the Chancellor as proper proceedings for the purpose.

Without, however, deciding that a petition was or was not the appropriate remedy in this case, the Chancellor thinks the prayer cannot be granted.

The order of the 18th November, 1844, made the allowance to the trustee of commissions on the rents collected and disbursed by him, and it is not until August, 1846, that any objection is made to this allowance. It certainly would be attended with great inconvenience and be productive of injurious consequences, if the decrees and orders of the court, after so great a length of time may be set aside, except upon very strong grounds. This objection of delay struck Chancellor Kent with great force in the case of *Lansing and McPherson*, and drew from him the remark, that to justify the interference of the court in such a case would require a very special case. And in the case of *Wooster vs. Woodhull* it was stated by the same Chancellor, that there was no general or positive rule upon the subject, but that the court must exercise a sound discretion, arising out of the circumstances of each case. In both of these cases the relief sought by the petitions was denied, because of the delay and negligence of the party applying to the court for its interposition.

There would, therefore, be great difficulty in granting the prayer of the petition of William J. Barry, upon the ground of the delay in applying for relief against the orders, even if the court was satisfied that the merits were with him. But the court is not so satisfied.

The Chancellor has already expressed the opinion, that there was an understanding or engagement, that no commission would be charged by the trustee on the sales, and that Mr. Glenn purchased a large portion of the property with knowledge of that engagement, and, therefore, that as against him, certainly it would be improper to charge commissions.

But this property, it seems, was held and rented by the trustee from 1839 to 1846; thus devolving upon him a great deal of