

Sustaining the Allegations in her Will. When a bill impeaches a Deed as fraudulent the positive denial of the accused must be met in the usual way by the oath of two or three witnesses, or one with "pregnant circumstances" Glenn vs Green and McMillan 3 Md, 212. In this case it is clear that the positive denial "in the answer has not been met in accordance with this rule. We have seen that no fraud or improper influence was practiced either upon Benjamin Fodd or his wife and that the fact of mistake or ignorance in the premises rests almost upon the allegations and oath of Mrs Fodd.

Although Dower is a high and valuable right much favored and guarded in the Law, and vigilantly protected by the Courts it would be unwise in the Courts, and dangerous to the rights and titles of Parties to permit Deeds of married women to be set aside merely upon the oath of the wife that she did not know the contents of the paper she was signing. Such a practice if permitted would unsettle and destroy the title to more than half the Land in the State.

If however, she did really know that the Deed was a conveyance of the Land in question, is she not liable to the charge of carelessness or inattention or not seeking to inform herself of the nature of the instrument she was executing? In Wood vs Patterson 4 Md, 406, Sec, 334 it is said "If the mistake is the result of the Party's Own Carelessness or inattention the Court will not interfere its policy being relief to the negligent, and to put all Parties upon the exercise of reasonable diligence"

Mrs Fodd was a woman of strong sense, and had good cause to view with suspicion any transaction in which Rachel F. Fodd was a party. It is also evident from the testimony of Mrs. Fodd herself, that if she did not willingly or knowingly perpetrate a fraud upon her Husband she acquiesced in the fraud after it had been accomplished by Rachel.

After the Deed had been executed, she was informed by him that it was unfiled, was not binding against her, and conveyed no title to the children. Yet she remained silent until after the death of her Husband, and permitted him to die under the false impression and belief that he had made ample provision for his Grand children whom he really loved. Thus perhaps without fully appreciating the enormity of the crime, she connived at the fraud of Rachel who was so wicked, and depraved, that he could knowingly and designedly cheat and deceive his poor feeble and blind brother, and defraud his grandchildren out of what his brother wished to give them.

Under all these circumstances, the Court cannot think that Mrs. Fodd comes up to that standard of fair and honest dealing which requires a party coming into Court, demanding Equity, must come with clean hands.

From this general view of the whole case after a most careful & laborious examination of the Law and the evidence, the Court is convinced that the Legislature had the right to pass the Act of 1867, Ch 160, that it does not admit any vested right; that the Deed in question is valid and conveys a fee simple title in the Land to Benjamin F. Fodd and Jesse C. Fodd; and that Mrs. Fodd, now Mrs. Green one of the complainants, has voluntarily parted with her right to Dower in the premises.

This opinion renders it unnecessary to pass upon the exceptions of the Defendants taken to a part of the Complainants testimony.

The Complainants have filed no exceptions to any of the Defendants testimony. It is thereupon this 29th day of June A. D. 1874, by the Circuit Court for Frederick County, as a Court of Equity, and by the authority thereof adjudged