No. 4411 Equity.

is the estate of the husband, and that the estate having been conveyed by him to his wife, by the deed of August the 8th. A. D. 1872, without consideration at a time when he was heavily in debt, and when suits at law were pending against him, was, and is, a fraud upon his then existing creditors, and should be declared null and void by this Court.

In the opinion of the Court, after a careful consideration of the testimony and all the other proceedings in the Case, it does not deem to be material in the Case whether the money which was paid for these lands, was the money of the husband or the seperate money of the wife. If the money of the husband, then there be no question that the prayer of the complainants ought to be granted.

If, however, the money was the seperate property of the wife, then the land ought not to be held liable for the debts of the husband, unless the wife is shown to be a conscious party to the concealment of her title from the public.

Opinion & Decree of Court

The husband and wife in their seperate answers, which are not sworn to, and are signed only by their solicitor, say the wife did not know that the deeds had been taken in the name of the husband, as grantee, until a short time prior to the execution of the deed of August the 8th, A. D. 1872. There is no proof of this, except the testimony of the husband, which under all the circumstances of his examination, and the contradictions and explanations in his testimony, can have very little weight with the Court. The same must also be said of the testimony of the husband in regard to the statement, that he always told his wife that the land was hers and that he never represented the property to strangers as his own. On this latter point, he is flatly contradicted by the other witnesses. In regard to the weight to be given to this part of the testimony of James A. Orendorff, the ruling in Greer vs. Baughman, et al., 13 Md., 270, that "the testimony of a witness in whose name the paper title stood, to show a resulting trust in his mother-in-law should be received with caution as coming from a witness operated on by a strong bias," is very applicable. The evidence in this cause to show a resulting trust is almost exclusively contained in the testimony of James A. Orendorff, the grantee in the deeds for the land in question.

"The rule which allows of the introduction of parol evidence in cases of resulting trusts, requires that Courts should view with the greatest caution such evidence, impeaching as it does, solemn instruments, the evidence of title to land. The authorities are clear, that the payment of money by the cestui que trust must be clearly proved, otherwise you render insecure titles depending on deeds, and other written documents." (Larringer vs. Ramsey, et als, 2 Md., 375.)

To establish a resulting trust, "the testimony must be of the clearest and most indisputable character." (Hollida vs. Shoop, et als, 4 Md., 475.) From these and other authorities which might be cited, it is absolutely necessary that the proof must be clear and convincing to establish a resulting trust. This character of proof is not found in the proceedings in this case, where the evidence relied on, rests mainly on the testimony of the husband of the party claiming to be the cestui que trust, a "witness operated on by a strong bias", and whose testimony it has been stated ought not to have much weight with the Court. But admitting that the money paid for these lands was the seperate money of the wife, and paid by her at the time the purchases were made, and the deeds taken therefor in the name of her husband, if she knew the deeds were so taken, and permitted her husband to use the lands as his own, and hold himself out to the public as the owner