

No. 4937 Equity.

Answer of John J.
Kouch & J. S. Newman

Deceit

with said condition she has never been trustee or clothed with the powers of a trustee in this cause.

5th That the said Valeria E. Kouch became the wife of Jacob J. Kouch after the death of his first wife to whom the property conveyed by the deed of trust belonged at the time of the conveyance aforesaid, that she has not now and never did have any interest whatever in the subject of the trust; that between her and the parties interested in the trust, whose step-mother and step-grandmother she is there is an antipathy and strained and hostile relationship; that she is now occupying the trust property with horses and cows and other personal property belonging to her without any shadow of right, that she resists and disputes the rights of the parties in interest to exact from her any compensation for such occupancy; that there is a dispute between them as to the ownership of the present growing crop of wheat which was planted after the death of the life tenant and that a more unmitigated person or one more inimical to the interests of the cestuis que trustent could not well be selected or continued as trustee in this cause under the circumstances thereof.

That it was never the intention of the court to appoint her as trustee to sell the real estate the subject of the trust as is evidenced by the amount of bond required which was only to be in the penalty of one thousand dollars, while the real estate is worth probably three thousand dollars at this time and ought to bring that at public sale, while at the time the order of November 6th, 1880, was passed in this cause said real estate was more valuable.

7th. That while these respondents dispute that said petitioner was ever trustee in this cause, yet they allege that if she was she has been guilty of a gross breach of trust in that she permitted the life tenant to cut, haul away and dispose of timber growing upon the trust property, some sixteen or seventeen acres in extent, from which he realized something like two thousand dollars, from which said trustee herself derived a benefit, and that no accounting was ever had and cannot now be had for the benefit of the parties interested.

8th That said petitioner has forfeited, by her failure to give bond and by her conduct in this cause any right to act as trustee therein.

9th That the order of this Court passed in No. 7264 Equity on the docket of your Honorable Court appointing these respondents trustees to sell the real estate conveyed by the deed of trust aforesaid was a valid exercise of equitable jurisdiction and should be continued in force by the dismissal of the petition of Valeria E. Kouch in this case and by a formal rescission of the order by which she was conditionally appointed trustee.

10th. These respondents deny that she ever acted as trustee or rendered any aid to the trust estate.

Therefore your respondents pray to be dismissed with their reasonable costs so unjustly sustained.

John E. Kouch
John S. Newman
Trustees.

Filed October 26, 1900.