

**302 Ante-nuptial settlements**<sup>13</sup>—**Equitable jointure.**—\*But in equity, if an intended wife, being adult, be a party to the deed, and so accept a more disadvantageous provision in lieu of dower she is bound by it. This subject is explained by Lord St. Leonards in *Dyke v. Rendall*, 2 De G. M. & G. 209, recognized in *Naill v. Maurer*, 25 Md. 532. He observed that it was very soon settled that, though there was no bar of the dower under the Statute, there might be under the rules of this Court; that must be either by analogy to the legal bar or on the ground of contract; and he was clearly of opinion that *the true ground of the equitable bar is that of contract*, and wholly independent of the Statute. If this Court acted by analogy to the legal bar, of course the bar could only be effectual where it would be so at law, supposing that the provision was converted into a legal estate; but this Court has always disregarded the Statute of Uses and the nature of the provision, and has never required any real estate to be settled, but has also considered that personal estate would do as well as real estate. In *Caruthers v. Caruthers*, 4 Bro. C. C. 500, Lord Alvanley states the rule of the Court that an adult woman may take anything, even "a chance," in bar of her dower, though that chance, as a bar of dower under the Statute of Uses, would go for nothing. But when this Court began to give effect to equitable bars of dower, it not only disregarded the nature of the property, or the *quantum* of it, (for an interest however slight, if accepted, was just as good as a larger provision,) but it did not consider it necessary that it should be sure to come to the widow. An equitable bar of dower therefore as to an adult has not the qualities necessary for creating a legal bar; everything depends upon contract; there is no doubt you may bar any possibility; you may deal with your rights in this Court of what nature they may be by contract fairly entered into. And so in that case, where on the marriage of an adult lady, a settlement had been made which was recited to be for providing a competent jointure and provision for her in case she should outlive her husband, &c., and it was agreed that the intended husband should give a bond to the trustees of the settlement conditioned for the payment of 2000*l.* within six months after the marriage, to be held in trust for him for life, then

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<sup>13</sup> It is well settled that the property rights of either husband or wife, or both, may be waived, enlarged, or diminished by ante-nuptial agreement or contract, where both parties are of full age. Harlan's Domestic Relations 59; *Reid v. Gordon*, 35 Md. 174; *Moody v. Hall*, 61 Md. 517. In *Busey v. McCurley*, 61 Md. 436, an ante-nuptial agreement provided that if the intended wife survived her husband, she should receive one dwelling house in lieu of dower and thirds. Her husband left a will bequeathing to her a dwelling house of small value and subject to a ground rent. It was held that this was not a fair performance of the contract, that the widow had a right to renounce the bequest and that a court of equity could decree an assignment to the widow of some particular house, or the erection of a house to gratify the terms of the contract, or the payment of a sum of money in consideration thereof. As to a bill to restrain the husband from disposing of his property in violation of an ante-nuptial settlement, see *Schnepfe v. Schnepfe*, 108 Md. 139. Cf. *Offutt v. Offutt*, 106 Md. 236.