

609, where it was held that if an adult wife, by an ante-nuptial settlement, in consideration of a jointure, agrees to relinquish her dower and she is afterwards evicted, she will be restrained in equity from claiming her dower against a purchaser of other lands of the husband not charged with the dower. And in *Dyke v. Rendall supra*, the dictum of Sir A. Hart in *Power v. Sheil*, 1 Moll. 296, that to make a settlement in equity a bar of dower, the provision made thereby must be substantially forthcoming, was overruled by the Lord Chancellor, who said that if an *adult* lady contracts to accept any given thing in satisfaction of her dower, she must take that thing with all its faults and defects, and by no analogy to the legal rule can she, in case of eviction from what she contracted for, come against the lands out of which she might otherwise have been entitled to dower. He added, however, that the husband must perform his covenant if he desires to keep his lands free from dower; that rested on the ordinary doctrine of the Court. And so a widow will be assisted in equity in subjecting her husband's assets to make good a deficiency in her jointure, if he has engaged that it should be of a certain amount, *Robert v. Morgan*, 1 Atk. 440; *Prime v. Stebbing*, 2 Ves. 411; *Speake v. Speake*, 1 Vern. 218; and see *Bac. Abr. Dower*, I.

Post-nuptial settlements.²⁹—To make the jointure a complete bar it must have been made before marriage. But if made after marriage, if it conform to the requisites of the Statute it will be a good jointure; though it is voidable by the widow, at her election, after her husband's death, *Co. Litt. 36 b*. If after his death she enter upon the lands and take the rents and profits, she will be held to have confirmed the jointure and be barred accordingly, *Vernon's case supra*; and if by bringing her writ of dower she waive her jointure, she will, at law, be confined to her dower and not be permitted to claim both, *Sharp v. Purslow*, cited *ibid.* *Gosling v. Warburton*, *Cro. Eliz.* 128. The rule is the same in equity. And it may be observed generally, that where a provision is made for the wife, which, by reason of its not being a legal jointure within the Act, is waivable by her, she will be compelled in equity to elect between such provision and her dower and will not be permitted to claim both, *Co. Litt. 36 b. n. 3*. If the husband and wife join in conveying lands settled in jointure before marriage, she will not be permitted to claim dower in other lands of her husband, because the

²⁹ A post-nuptial settlement made by the husband on his wife is not presumed to be in lieu of dower or thirds, and if an intention to that effect does not appear, the widow will take both the settlement and dower and thirds; but if such intention is apparent, the widow will be put on her election. Formerly if the wife were a party to such a settlement, or contract, she was not bound by it, since she was incompetent to contract by reason of her coverture; but she was nevertheless likewise put on her election. *Venable's Real Property* 30; *Harlan's Domestic Relations* 61. Cf. *Hokamp v. Hagaman*, 36 Md. 511.

But now, since under the Act of 1900, ch. 633 (Code 1911, Art. 45, sec. 20), a wife has power to contract with her husband, it seems clear that any post-nuptial contract between husband and wife, settling their respective property rights, would be equally binding on each of them.