

extent of the share of each tenant in respect of whose relation as husband to any particular woman that title can accrue." <sup>3</sup>

**Instantaneous seisin.**—The wife of a bare Trustee is not entitled to dower. *Cowman v. Hall*, 3 G. & J. 398. Questions arise sometimes whether the wife is entitled to dower in cases where the husband had only what is called an *instantaneous seisin*, *e. g.* where the husband takes a conveyance in fee and at the same time mortgages the land back to the grantor, or to a third person to secure the purchase money in whole or in part. In *Macauley v. Grimes*, 2 G. & J. 318, the Court of Appeals said that "perhaps there is no general rule in strictness that in cases of instantaneous seisin the widow shall or shall not be entitled to dower. This must depend as well upon the character of the seisin as its duration; when a man has the seisin of an estate though for an instant, beneficially for his own use, his widow shall be endowed. Where he is the mere instrument for passing the estate, although there may be an instantaneous seisin, the widow shall not be endowed." In that case the husband was seised for the combined use of himself and others, but his interest was not susceptible of particular ascertainment, and was to be postponed until the gratification of certain uses to which the lands had been made subservient, and it was held therefore that the widow was not entitled to dower. It seems not necessary that the conveyance and the mortgage should bear the same date, provided they are delivered together, *Mayberry v. Brien*, 15 Peters, 21; and in such a case it would be competent to show by parol the time of their delivery. But in *Hannah K. Chase's case* 1 Bl. 206, it was held, that an absolute sale to the husband with a condition for re-purchase, not being a mortgage, vested in him an estate of which his wife was dowable. <sup>4</sup>

<sup>3</sup> **Husband's seisin.**—Actual or corporal seisin by the husband is not necessary but only a seisin in law which implies and involves the right to an immediate corporal seisin. The wife acquires no new freehold; her seisin is but a continuation of her husband's seisin; and the general rule is that her dower is liable to be defeated by every subsisting claim or incumbrance, in law or in equity, existing before the inception of her right, which would have defeated the husband's seisin. *Rowland v. Prather*, 53 Md. 232. See the hybrid conveyance in *Link v. MacNabb*, 111 Md. 641.

<sup>4</sup> **Instantaneous seisin.**—The doctrine of instantaneous, or transitory, seisin, as stated above, is fully confirmed in the leading case of *Glenn v. Clark*, 53 Md. 580. Cf. Code 1911, Art. 66, sec. 4, as to priority of purchase money mortgagees over judgment creditors. *Heuisler v. Nickum*, 38 Md. 270; *Ahern v. White*, 39 Md. 409.

But where the deed was executed and acknowledged on the 28th of October and recorded on the following day and a mortgage to secure the purchase money was executed on the same day but not acknowledged and delivered until the 14th of November following, it was held that the widow of the mortgagor was entitled to dower as the deed and mortgage were not delivered at the *same time*. *Rawlings v. Lowndes*, 34 Md. 639.

**Vendor's lien.**—The lien of a vendor for unpaid purchase money, if not waived, is superior to the claim of dower of vendee's widow, whether vendor