a trustee in possession by a valid legal title cannot by any act of his own make that possession adverse to his real *cestui que trust*, and so
453 long as he is in *possession limitations will not run against the *cestui que trust*, even though the trustee should, through error or other cause, treat himself as trustee for others, and account to them for rents of the lands, *ibid.*, and Lister v. Pickford, 34 L. J. Chan. 582. So if a deed be made in trust to pay the debts of the grantor for which the grantee is liable, limitations will not run against those debts in respect of the property so conveyed, though they be barred in respect of the other property of the grantor, Gibbs v Cunningham, 4 Md. Ch. Dec. 322. But the rule is confined to trustee and *cestui que trust*, and therefore if both be out of possession for the time limited both are barred, Harwood v. Oglander, 6 Ves. Jun. 199; S. C. on Appeal, 8 Ves. Jun. 106,[12] unless in cases of fraud, Blake v. Foster, 2 Ball & B. 387, for fraud forfeits the protection of every statute that confirms doubtful titles.[13] An exception of knowledge of the fraud and lying by with that knowledge naturally exists even here, Brawner v. Staup, 21 Md. 328; but acquiescence is not considered to occur, where the same undue influence continues on one side, and the same circumstances of distress continue upon the other, Purcell v. McNamara, 14 Ves. Jun. 91; nor does the principle apply where the parties were under a common mistake, Cholmondely v. Clinton, 2 Mer. 262.

Martin, 33 Md. 619; Gordon v. Small, 53 Md. 559; Owens v. Crow, 62 Md. 496; Dorsey v. Banks, 70 Md. 514; Morton v. Harrison, 111 Md. 536; Riddle v. Whitehill, 135 U. S. 621; Spiedel v. Henrici, 120 U. S. 377.

Contra, as to implied, or constructive, trusts arising by operation of law. Weaver v. Leiman, 52 Md. 708. A director of a corporation is merely an implied, or constructive, trustee for shareholders or creditors and the Statute of Limitations runs in his favor. Emerson v. Gaither, 103 Md. 578.

Legacies are not barred by the statute but they may be by laches. Ogle v. Tayloe, 49 Md. 176 and note 38 *infra*. The same is true of claims for distributive shares of the personal estate of a decedent in the hands of his administrator, or executor. Constable v. Camp, 87 Md. 179; Sangston v. Hack, 52 Md. 188. And where an administrator passes his final account showing a balance in his hands for distribution, the distributees can at once demand and sue for the same and limitations therefore run against them from the date of such account both at law and in equity. Biays v. Roberts, 68 Md. 510.

No participant in a breach of trust can invoke the defence of limitations any more than can the trustee himself. Duckett v. National Bank, 86 Md. 411.

Limitations are not available by a legatee against an advance made to him. Baker v. Safe Dep. Co., 93 Md. 368.

[12] Crook v. Glenn, 30 Md. 55. Where the *cestui que trust* is under disability but there is a trustee in existence to represent him and his rights and interests in the trust estate, the Statute bars as effectually as if no such disability existed. Crook v. Glenn *supra*; Frazier v. Gelston, 35 Md. 314; Weaver v. Leiman, 52 Md. 715; Reeder v. Lanahan, 111 Md. 372.

[13] See notes 43-46 *infra*.