

name the conveyance is taken, be one for whom the party advancing the consideration is bound by a natural or moral obligation to provide, no presumption of a trust will arise, but the transaction will be regarded as *prima facie* an advancement for the benefit of the nominee, *Mutual Ins. Co. v. Deale*, 18 Md. 26; see also *Greer v. Baughman*, 13 Md. 257.¹⁰⁸

It is indispensable that the payment of the purchase money by the party claiming the trust should be prior to, or at the time of the purchase, either with his own or with borrowed money, *Hays v. Hollis*; *Purdy v. Purdy supra*; *Brawner v. Staup*, 21 Md. 336;¹⁰⁹ for if one purchase in his own name and on his own credit, it cannot be shown that the purchase is for another's benefit, and a subsequent advance by the latter will not attach by relation a resulting trust to the original purchase, *Hollida v. Shoop*, 4 Md. 465. On the other hand, it has also lately been held in *Green v. Drummond*, 31 Md. 71,¹¹⁰ that in all cases there must be a mutation of the legal title, and no resulting trust can arise upon an executory contract for the purchase of lands, where there has been no conveyance of the legal title,¹¹¹ in favour of a party jointly interested in the purchase, and advancing part of the purchase money at the time, though creditors may, it seems, attach the interest of the party so advancing his money on such an executory contract, and he will be entitled *to a decree for com- **548**
pensation, the measure of which will be the amount of purchase money advanced by him and interest, but only as a general creditor.¹¹²

If property be so purchased with the money of one and the deed be taken in the name of another, parol proof is admissible to set aside the

¹⁰⁸ *Groff v. Rohrer*, 35 Md. 327; *Kreps v. Kreps*, 91 Md. 692; *Kennedy v. McCann*, 101 Md. 643. This presumption may be rebutted but not by acts or declarations of the purchaser subsequent to the purchase. *Johnson v. Johnson*, 96 Md. 144.

¹⁰⁹ And such money may be borrowed direct from the person in whose name the deed is taken. *Dryden v. Hanway*, 31 Md. 254; *Keller v. Kunkel*, 46 Md. 565; *McRae v. McRae*, 78 Md. 279; *Pickett v. Wadlow*, 94 Md. 564; *Miller v. Miller*, 101 Md. 600.

A subsequent advance will not, however, attach by relation a resulting trust to the original purchase. *Keller v. Keller*, 45 Md. 274; *Hinman v. Silcox*, 91 Md. 583. And a resulting trust is not created by the circumstance that a borrower of money uses it in part payment of land purchased in his own name although the lender thought he would have an equitable lien on the land for the repayment of the loan, when there was no representation or promise by the borrower to that effect. *Euler v. Schroeder*, 112 Md. 155.

¹¹⁰ Same case, 35 Md. 151.

¹¹¹ See also *Plummer v. Jarman*, 44 Md. 632; *Morgart v. Smouse*, 103 Md. 467.

¹¹² Where a guardian purchases land, or takes a mortgage for his ward, using the ward's money, but taking the conveyance in his own name, a trust results for the benefit of the ward, which is unaffected by the claims of judgment creditors of the guardian whether before or after the conveyance. *Hartssock v. Russell*, 52 Md. 619.