

From this decree the defendant appealed, and on the 22nd July, 1829, it was affirmed by the Court of Appeals.

COALE v. CHASE.

EQUITY PLEADING.—FORM OF AFFIDAVIT.

The allegations in the body of an answer, or plea, should be positive, otherwise the issue would be joined on a mere statement of the belief of the parties, not upon their allegations of fact.

Yet to obtain a dissolution of an injunction, it is sufficient that an executor or administrator, in stating facts, which from the nature of the case, could only have been personally known to his testator, or intestate, should say, that they are "as he is informed and verily believes," so and so. (a)

It is sufficient if the affidavit be so absolute and positive, when taken in connexion with the body of the answer, as to subject the party to a prosecution for perjury; if the matters stated should be false. (b)

This bill was filed in Harford County Court on the 13th of October, 1826, by Skipwith H. Coale and Eliza Matilda Coale, against Hannah Kitty Chase, in which it is alleged, that the plaintiff, Skipwith, had given his bond to the defendant, Hannah, for the payment of the sum of five hundred dollars, upon certain trusts and conditions, in favor of her daughter the plaintiff, Eliza; but that the defendant, Hannah, regardless of this their special agreement, had brought suit against the plaintiff, Skipwith, upon the bond, and obtained judgment. Whereupon the plaintiffs prayed an injunction to stay execution, and for relief according to the nature of their case. An injunction was granted as prayed. The defendant filed her answer, and obtained an order under the Act of 1829, ch. 196, to remove the case to this Court, and the proceedings were accordingly filed here on the 25th of November, 1826; after which the defendant gave notice of her motion to dissolve the injunction, and the case was brought before the Court.

BLAND, C., 3d January, 1827.—This case standing ready for hearing on the motion to dissolve the injunction, the solicitors of the parties were heard, and the proceedings read and considered.

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(a) Approved in *Carpenter v. Providence Ins. Co.* 4 Howard, 218.

(b) Approved in *Triebert v. Burgess*, 11 Md. 459, where it was held that an affidavit to a bill for an injunction "that the facts stated in the bill are true to the best of his, (complainant's) knowledge and belief," is sufficient.