

deducting the value of improvements as above mentioned. But the said commissioners are not to include in the said valuation and division; any real estate of the said testator for which he may have given bonds of conveyance, or which he has sold, or contracted to sell, and for which his executors are authorized to execute all necessary deeds to complete such contracts as are mentioned in his said last will and testament. And that the said commissioners be directed, in the commission, to make out a plot and certificate of the said real estate; and of the divisions thereof, and an accurate description of the same and of the several parts thereof, and the value of each; and to the said commission there shall be annexed, as usual, an oath of office.

After which the commissioners made a return, that they had made partition of the real estate in pursuance of this decree, which, with the consent of the parties, was confirmed by a final decree in the usual form, awarding to each one of the eight devisees one share to be held in severalty.

* COLEGATE D. OWINGS' CASE. 370

UNDUE INFLUENCE.—CONTRACTS OF PERSON NON COMPOS MENTIS.—DIFFERENT KINDS OF DEMENTIA.—PROMISE TO DEVISE PROPERTY.—CONSIDERATION OF CONTRACTS.—CHANCERY PRACTICE.—DEED OBTAINED BY FRAUD AND UNDUE INFLUENCE VACATED, BUT CONTRACT OF GRANTOR WITH GRANTEE ENFORCED.

A suit, which had been instituted in the name of a person in her dotage, having been dismissed by her under the influence of the defendant; it was reinstated, and directed to be thenceforward prosecuted by her solicitor for her benefit.

It was ordered that she should be permitted freely to go and to reside where she pleased; and that if necessary a receiver might be put upon the estate to have its rents and profits applied to her maintenance pending the litigation.

The maxim of the English law, that no man of full age shall be, in any plea to be pleaded by him, received to stultify himself and disable his own person, examined, considered, and rejected, as being inconsistent with the principles of the law of Maryland. (a)

The indications and characteristic differences between the four kinds of *dementia*, called idiocy, delirium, lunacy, and dotage, as regarded by the medical profession and as recognized by the law, examined and considered.

Weakness of mind is a sort of mental imbecility approaching to the condition of *non compos mentis*, and analogous to childishness and dotage.

(a) See *Turner v. Rusk*, 53 Md. 69.