

supposition is irreconcilable with the nature of his feelings and relations towards them, and to be credited, must be strongly supported by evidence.

Much stress has been laid by the complainant's counsel upon the case of *Smith et al. vs. Gittings et al.*, decided by the Court of Appeals at December term, 1845. That case decides, what is believed to have been well settled before, that marriage is a valuable consideration, and that a promise made in consideration of marriage, cannot be revoked at the will of the party who made it. But the evidence in that case, as it appears to me, of the promise, was of a far more conclusive character, than in this. Indeed, in that case, there could be no doubt, looking to the declarations and acts of Mr. Dugan, both before, and subsequent to the marriage, that the property in question belonged to his daughter Mrs. Smith, and her children, and there was not a single act or declaration inconsistent with that view of the case. In this case, as I have already observed, there is much evidence, leading to a different conclusion, and various considerations of prudence, calculated to deter the grandfather from placing this property at the disposal of his grandson.

Now, this being a case in which the complainants call upon the court to interfere in their favor, by enforcing the specific execution of a contract, they must come before it with a much stronger case, than if they were acting defensively, and merely resisting such an application made by the adverse party—under the circumstances of this case, the court must entertain no reasonable doubt of the existence of the contract, and be satisfied that it is one, which looking to what is just and reasonable, ought to be enforced. 2 *Story, Equity*, sec. 769; *Seymour vs. Delancey*, 6 *Johns. Ch. Rep.*, 222.

But there are other grounds upon which, in my opinion, the relief prayed for in this case must be refused. It is established by the cases, and by writers of the highest distinction, that the specific execution of contracts in equity is not a matter of absolute right in the party, but of sound discretion in the court, and that unless the court is satisfied, that the application to it for this extraordinary assistance, is fair, just and reasonable, in