

the bargainor therein not impeaching it as fraudulent, but claiming the aid of this court to enforce his lien as vendor, to recover the purchase money expressed in it, the question is, shall he be permitted to do so, if upon the evidence it is shown that he has received, not in money, but in something else of value, what at the time he considered as an equivalent for the money?

Suppose, in the case of *Wolfe vs. Hauver*, the defendant, the purchaser, could have shown that he had paid, and the plaintiff had received, as an equivalent for the two thousand dollars, (the consideration expressed in the deed,) merchandise or other property; and that such was the agreement of the parties, at the time the contract for the purchase was made? Can it be possible, that under such circumstances the complainant could have been allowed to recover a judgment for the purchase money? If he could, where would be the defendant's redress for a wrong so monstrous and palpable? If he could not defend himself at law, because he could not in the face of the deed prove any other than the payment of the monied consideration expressed, he would be equally defenceless in equity; because the rules of evidence in regard to explaining, or varying, or contradicting written evidence, are the same in both courts; and thus the court must unavoidably be the instrument in inflicting the grossest injustice.

If in the case now under examination, the consideration of the deed from the complainant to the defendant, instead of being, as is alleged, twenty-five thousand dollars of stock in the *Okisko Company*, had been the conveyance by the defendant to the complainant of real estate of the same value, and each deed had been upon a money consideration expressed, is it possible, that upon a bill filed by one of the grantors, claiming the enforcement of the vendor's lien, this court must have given him a decree for a sale of the property, upon proof that the monied consideration expressed, had not been paid? And that, the other vendor must in like manner proceed upon his equitable lien to recover his money, which in case of any serious deterioration of the property, from any cause, might be impossible.