

But this is not a suit upon the contract by either of the parties thereto, against the other. The contract between the parties has been consummated and closed by a sale of the stock held by the bank and the re-payment of the money loaned. There has been a satisfaction and extinguishment of that contract by payment, four months before this bill was filed by a stranger to that contract; and the question is, whether it is competent to this stranger, now that the money has been paid and the contract performed, to open it, and, upon the ground that it was interdicted by the charter, take away the money from the bank?

I cannot think so. Even in the case which has been referred to, of *The Steam Navigation Co. vs. Dandridge*, which was a suit between the parties to the contract, I am persuaded, that if either of them, after the performance of the contract, had instituted an action against the other, either to recover back the money paid, or for any other purpose, and had placed its right to recover upon the ground of the invalidity of the contract, the answer would have been—you come too late with your complaint, the contract has been performed and is extinguished, and there is an end of it.

I am, therefore, of opinion, that there can be no decree against the bank, except for the surplus which it holds for the party legally entitled thereto.

The right of the complainants to a decree against the city of Baltimore will now be examined.

The answer of the city denies all knowledge in fact of the decree referred to in the bill, or that the said stock was set apart and directed thereby to be held by Samuel Jones and Andrew D. Jones, as trustees, under the will of Talbot Jones, for the use of Mrs. Albert; or that the transfer of said stock by the trustees, to the bank, was made with the knowledge of the officers of the corporation, for the use and benefit of Samuel Jones, or Andrew D. Jones, or in any manner misapplied from the purposes for which it was held in trust.

And the answer likewise denies that the officers of the city corporation knew for whom the said Samuel Jones and An-