

defendant's bonds, and these parties are not now before the Court.

In the former opinion of this Court, it was said that "this is the case of a husband dying seized of a legal estate of inheritance," and therefore the widow's claim to dower could not be defeated; 1 *Md. Ch. Decisions*, 454. It is now contended, however, that inasmuch as the title of Mr. Bowie was only an equitable one in 1839, when he contracted to sell to the defendant, and as, according to the view which this Court has (1 *Md. Ch. Decisions*, 454) taken of the case of *Miller vs. Stump*, 3 *Gill*, 304, he might, by a transfer of his title in his lifetime, without his wife's consent, have defeated her claim to dower, his contract to sell must have the same effect, upon the principle of equity, that that shall be considered as done which the party has contracted to do; and consequently, when a contract is made for the sale of an estate, equity considers the vendor as a trustee for the purchaser of the estate sold, and the purchaser as a trustee of the purchase-money for the vendor; *Sugden's Vendors*, 130.

There is no doubt that such is the rule in equity as between the parties to the contract, and yet it is perfectly well settled that a *bona fide* purchaser from the vendor without notice, would be protected from the claim of the vendee. Equity, therefore, does not, for all purposes and to every intent, consider that done which is only contracted to be done, because if that were so, a subsequent purchaser obtaining a conveyance without notice, could not hold against the title of the prior vendee claiming under a contract.

The cases in Maryland only prove, that where the husband holding the equitable title, actually parts with it, or it is sold and disposed of by his creditor during his lifetime, the wife shall not be endowed. There is no case which decides that a mere executory contract made by him will have the same effect.

Upon the purchase of this land by Mr. Bowie, in the year 1832, the right to dower attached, subject, to be sure, to be defeated by a transfer of his title in his lifetime. It may be