

real estate, and has a right in equity to pursue the estate or its proceeds as against the vendor or volunteers claiming under him, or his judgment or general creditors. And this proposition is too firmly established by authority to be successfully disputed. *Sections 1218 and 1228, in 2 Story's Eq.*, and the case of *Repp vs. Repp*, 12 *G. & J.*, 341, are entirely conclusive of the question. Indeed, the counsel on the other side has not controverted the principle, but seeks to escape its operation, by showing the difficulty, if not the impracticability, of applying it under the peculiar circumstances of this case.

This debt, as appears by the award, was partly for real, and partly for personal estate, and there is nothing upon the face of the award to show what amount of either constituted the sum total of the claim. The difficulty, then, is in segregating its component parts, and ascertaining what proportion of the entire indebtedness is on account of the interest of Basil D. Spalding, in the real estate of his father, for beyond that proportion, of course, he can have no pretence for claiming the benefit of the vendor's lien. There is, no doubt, some difficulty upon this point, but in view of the relation which these parties bore to each other, it seems to me to be the duty of this Court rather to exert itself to overcome the difficulty, than to press it with undue severity. They stood to each other in the relation of guardian and ward, or *quasi* guardian and ward, and every reasonable intendment should be made for the benefit of the ward, in the construction of transactions or contracts between them, occurring soon after the termination of that relation.

Giving the proper weight to this consideration, and perhaps independently of it, there is, I think, in the record, sufficient evidence that a certain proportion of this debt is for the purchase-money of real estate. The deed to George R. Spalding, from Hamilton and wife, John F. Spalding and wife, and purporting also to have been executed by Basil D. Spalding, by which the interest of the grantors in the estate of George H. Spalding was conveyed to the grantee, was for the consideration of \$5,000. The interest, therefore, of these grantors in