

shares to be issued to him for an equivalent amount, he has an undoubted equity, at least, to demand such re-transfer, or new issue for any excess beyond his actual indebtedness to the Company. If instead of an equivalent in money, he calls for his stock, what justice can there be in denying him? His claim to restitution to the extent of the excess seems to me to be unquestionable, and under the circumstances of the case, I think he has a right to demand the whole amount of stock transferred by him, upon his paying the amount really ascertained to be due from him. In other words, that the transfer shall stand only as a security for the sum really due.

It will be borne in mind that one of the grounds upon which much stress was laid in directing the settlement to be corrected, was the feeble condition of the complainant's mental faculties, when the accounts upon which the settlement was based were presented to him. In the judgment of the Court, he did not and could not understand them. The same motive which induced the Court to look with an indulgent eye upon the acts and conduct of the complainant in regard to the settlement, cannot be without its influence when the transferring his stock, the result of the settlement, is under consideration. They were contemporaneous acts, performed by a party whose intellect, to a great extent, had sunk before the force of physical disease, and therefore present a case in which it is the duty of the Court to do him full and complete justice, taking care always to do no injustice to the other side. If the money actually due the defendant is paid, it is all it can be entitled to, and all, of course, it can reasonably ask for.

It is not, in my opinion, easy to draw a substantial distinction in principle between this case and the case of *Boyd vs. Dunlap*, 1 *Johns. Ch. Rep.*, 478, where it was held that though a deed fraudulent in fact is absolutely void, and is not permitted to stand as a security for any purpose of reimbursement or indemnity, yet it is otherwise with a deed obtained under suspicious circumstances, or which is only constructively fraudulent. For, in that case, which was a bill filed by the creditors of the grantor to vacate a deed made by their debtor to his