

the statute of frauds, the fact of the payment may be established by parol proof. But although the fact of the payment of the money may be shown by parol proof, the evidence must be so strong and decisive as to leave no reasonable doubt upon the subject. The cases all concur in this because of the danger of this description of proof, not only as tending to perjury, but on account of the insecurity to which its introduction exposes the paper title. *Boyd vs. McLean*, 1 *Johns., Ch. Rep.*, 582.

In this case I have examined the proof very carefully, and though there are circumstances connected with the transaction, and the condition, habits and occupation of the parties from which it may be inferred that the purchase money for these parcels of the property was paid by Faringer, I do not find that clear and positive testimony which the principles so frequently and finally settled imperatively demand. The evidence upon this point, in my judgment, falls far below the standard established by the authorities, and I, therefore, do not feel warranted in declaring that this property is impressed with a resulting trust for Faringer.

The deed from William E. Beale to Eliza Ramsay, was executed on the 7th of April, 1845, and that of Daniel J. Hopoldt and Samuel Kramer, to the same party, on the 4th of February, 1847. On the day of the execution of the first deed, Eliza Ramsay executed a mortgage of the property thereby conveyed to her, to David N. Brown, to secure the payment of \$212, for which she had given him her promissory note, so much being due to him from Beale, and which by agreement of the parties, she, Eliza Ramsay, was to pay to Brown, and on the 31st of March, in the year 1846, the debt due to Mr. Brown having been paid by Eliza Ramsay, he, on that day, released the mortgage which she had given to him to secure its payment.

Faringer died in the year 1849, but the precise time of his death is not stated, having in the same year applied for the benefit of the insolvent laws, and the bill alleges, that the complainant was appointed his permanent trustee on the 11th of June of that year.

The bill does not allege, nor is it shown in proof, that he was