

husband, and her having been deluded into a marriage for the sole purpose of enabling him to get hold of her property. But if, as has been said, this court has the power to go so far as even to declare the contract of marriage itself to be null and void, on the ground of its having been procured by terror, abduction, and fraud; (*k*) it would not be consistent with itself, and faithful to its best principles, if it were not to allow itself, under such circumstances as are here presented, to deal out to the wife a liberal and saving measure of justice; and, as the only means of preventing the deceiver from profiting by his delusion, to have the whole of her fortune settled upon her exclusively.

Let it, however, be supposed that *Lewis Helms*, in contracting marriage with his present wife, was actuated by no improper or unworthy motives; or that, even if he was, they cannot be allowed to form any sufficient reason for stripping him of the whole of this legacy, and that it is impossible the court should undertake, of itself, to give the whole to her; because it cannot assume or admit the position, that a married woman is entitled to the whole of her separate property to her separate use, in direct opposition to the clearest principles of the marriage contract. Yet the husband, at least, is in a condition to bind himself by his own voluntary consent; and, therefore, although the court itself cannot divest him wholly of his marital rights, yet he himself may freely release them; and if he does do so, such relinquishment may be received, ratified, and cast into the shape of a settlement, by the court, for the benefit of the wife and her children.

Where it appeared that the wife was entitled to a large legacy; that she had been clandestinely married; that the husband, after the marriage, had made a settlement equal to the whole amount upon her, and that in consideration thereof, the trustees had paid the legacy to the husband; it was held that the settlement of the whole, by the agreement and consent of the husband, was binding and good even against his creditors. (*l*) And where the husband had given a note to his wife, that if he should treat her ill, she should have her share of her mother's estate to her own use. It was conceded that such a consent of the husband would have been sufficient as to the amount; and that the whole might have been settled upon the wife. (*m*) And where property had been be-

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(*k*) *Ferlat v. Gojon*, 1 Hopk. Rep. 478.—(*l*) *Moor v. Rycault*, Prec. Cha. 22; *Wheeler v. Caryl*, Amb. 121.—(*m*) *Nicholls v. Danvers*, 2 Vern. 671; *Rodney v. Chambers*, 2 East. 283.