she had any knowledge of the fraudulent intent of her brother. She had money of her own, she was accustomed to do business for herself with this money, she had lent the brother money at least once before, she had had dealings with property, the price alleged to be paid was a reasonable one. All the defendants deny that any conversation took place about the law suit at the time the alleged bargain was made; the law suit is said not to have been a topic of conversation in the family, as it was a "dirty one," and beyond question $465 of the $800 purchase money was paid by the purchaser to the vendor. Even if we were to say that the defendants are not worthy of belief, the furthest that would take us would be to disregard their evidence altogether, not to find as a fact the reverse of what they depose to. I think that it may fairly be said to be proved for the plaintiff that Isaac Hamilton was in possession of funds from which he might have handed over to his sister the money she is alleged to have paid him, and that the transaction throughout is a suspicious one. But beyond suspicion the case does not go; and in a case of this kind suspicion is not enough. There must be some evidence upon which the Court can proceed; the fact that the parties are brother and sister is not sufficient to shift the onus from the plaintiff. I am unable in this case to find anything upon which a trial Judge could base a finding that this "conveyance was in fact executed with the intent to delay and defeat creditors."

The principles governing are so clearly and authoritatively laid down in such cases as Cameron v. Cusack, 17 A. R. 489, Hickerson v. Parrington, 18 A. R. 635, and Gurofski v. Harris, 27 O. R. 201, that it would be useless to restate them.

"The case . . . is one of that class in which in order to defeat the deed there must be proof of an actual and express intent to defraud creditors, and the purchaser must be shewn (not suspected) to have been privy to such intent:" 18 A. R. at pp. 640, 641, per Osler, J.A.

I am of opinion that the appeal of Mary Anderson should be allowed with costs, and the action as against her be dismissed with costs.

BRITTON, J., gave reasons in writing for the same conclusion.

FALCONBRIDGE, C.J., dissented, for reasons given in writing.