

1856.
 Bowes
 v.
 City Toronto

sures which enabled him to carry into effect his contemplated operation, is another question—whether a purchase made under such circumstances would inevitably raise the presumption of what is called legal fraud, which is an imputation distinct from any charge of actual fraudulent conduct or intention, would be the point to be determined.

As to any actual fraud being practised or intended by the defendant in this case, it was hardly meant, I think, to be insisted upon in the argument, except so far as the concealment spoken of may be looked upon as a fraud upon the corporation; and we can see, I think, very plainly upon the evidence, that nobody has been in fact defrauded by the defendant, and that neither the plaintiffs nor others have suffered any injury. While I say this, I must not forget to add, that in cases where the rule in equity plainly applies, I take it to be clear, that there is no necessity for proving any actual fraud or fraudulent intention, or to shew that any injury has been produced by the transaction which is complained of as violating the rule.

Judgment,

It is enough that in such cases courts of equity, from a jealous regard to the necessity of enforcing integrity of conduct under circumstances of peculiar temptation, and where individuals cannot adequately protect themselves, have determined to hold the transactions absolutely invalid; and this without having any proof of actual fraud, or of injury, which proof (whatever may have been the facts) it might in many cases be difficult to supply. The rule itself has in a multitude of instances been enforced and its necessity illustrated by eminent equity judges, in language of more than usual force and eloquence. If I could hold this to be as plain a case of constructive trust as any of those in which I have found such language used, I could have no doubt about the application of the rule; but at present I consider that the

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