

a settlement?" but, "With what intent was it made?" These are not the same thing—although the intent may be inferred, perhaps in some cases necessarily inferred, from the effect: *Ex p. Mercer*, 17 Q.B.D. 290.

I cannot find anything in the evidence to justify a holding that the settlor had any idea that he was in other than thoroughly solvent circumstances when he made the settlement, or, indeed, that he was in fact insolvent. His business was good and a paying business; his liabilities seem to have been promptly met—and, even if we neglect the value of the goodwill, I am unable to see that there is any ground upon which intent can be found.

His difficulties arose from the action—not, I venture to think, to be anticipated—of the License Commissioners; and in some part from other causes subsequent to the settlement. But these subsequent troubles and their effect do not help to fasten guilty intent upon the settlor: per *Malins, V.-C.*, in *Crossley v. Elworthy*, L.R. 12 Eq. at p. 167.

I am of opinion that the judgment appealed from should be reversed and the action dismissed, both with costs.

*BRITTON, J.*, agreed that the husband was in fact, and thought himself to be, in solvent circumstances when he executed the conveyance to his wife. He referred to *Elgin Loan Co. v. Orchard*, 7 O.L.R. 695. The appeal should be allowed with costs, and the action dismissed with costs.

*FALCONBRIDGE, C.J.*, dissented, for reasons stated in writing. He thought that the majority of the Court had placed too large a value upon the business, chattels, etc., including goodwill. The business was a hotel business, and was not on the same plane as other businesses, being subject to control by the License Commissioners. Any one going into the liquor business incurs risks. There is a hazard which is or ought to be in the contemplation of any one embarking in or carrying on that business; and this consideration bears on what was or ought to have been the attitude of mind of *John L. McGuire* when he made the settlement impeached. The fraudulent intent should, therefore, be inferred, and the case is distinguishable from *Elgin Loan Co. v. Orchard*.