

knowledge, then it would be unconscionable to allow him to hold the benefit of it, obtained and withheld in such circumstances. . . .

After the son's marriage he (about 1903 and 1904) built a house for himself and his wife on the land. Plaintiff says he forbade him to do so, but it is manifest that he and the family assisted to some extent in the building, and helped defendant to move into it. . . .

It would be inequitable that the son should be deprived of that house or the ground immediately occupied with it, not including any worked or used by or for plaintiff since the house was occupied. The house is said to have cost about \$300, the whole property to be now worth \$1,200 to \$1,500.

The evidence has been very contradictory, and on both sides has been in some respects very unsatisfactory.

The judgment will declare defendant to have been a trustee of the whole of the land for plaintiff, but to be now entitled in his own right to the ground occupied or used with the house built by defendant, to be specified by metes and bounds; that defendant should bear, in respect of the ground so occupied with or used with the house, payment of a due share of the purchase money, \$500, paid for the whole property to Mr. Thomas Cundle or his estate, such share to be in proportion to the relative value of such ground before the house was built, as compared with the whole of the property at that time, and to the extent of such share shall pay and discharge the existing mortgage for \$150, and the balance of the mortgage shall be borne by plaintiff, and defendant shall execute to plaintiff (free from any incumbrance done or suffered by defendant) a conveyance of the land, excepting the part to which defendant is declared entitled. No order will be made as to costs up to the present.

The parties will, doubtless, be able to arrive at the measurements, quantities, values, and shares indicated, but, should they not agree, I will hear evidence and settle the amounts of lands and moneys to be inserted in the judgment. I reserve the question of costs involved thereby.