

**SPECIFIC PERFORMANCE** — *Continued.*

specific performance of agreements is not a matter of right in the party seeking relief, but of discretion in the Court to be exercised in accordance with fixed rules and principles. In a suit for specific performance of an alleged parol agreement for the sale to the plaintiff by the defendant of a piece of land, the bill alleged the agreement to be that the plaintiff should take the land subject to a mortgage on payment to the defendant of \$100. The plaintiff's evidence proved the agreement to be that the amount payable to the defendant was to be secured to him by a second mortgage on the land. The defendant's evidence proved that the plaintiff was to pay off the mortgage then on the land, and give the defendant a mortgage for amount payable to him. *Held*, that there was no concluded agreement between the parties, and that the bill should be dismissed, but, under the circumstances, without costs. *CALHOUN v. BREWSTER* ..... 529

2. — *Agreement to Give Chattel Mortgage.* Specific performance will be decreed of an agreement to give a bill of sale upon ascertained furniture sold and delivered upon credit in reliance upon such agreement. *JONES v. BREWER*. 630

— *Deed—Agreement to maintain vendor—Vendor's lien* ..... 116  
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See *REGISTRY LAWS*, 2.

**TRUST**—*Following Trust Property—Executor de son tort—Proceeds of Trust Property Invested in Land—Joiner of Widow.* If property held by an executor *de son tort* has been disposed of by him and the proceeds invested, the beneficial owners may follow the substituted property into the hands of a third person not a purchaser for value without

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notice. An executor *de son tort* sold property and invested the proceeds in land, and conveyed it to his daughter by a deed to which his wife was not a party. After his death a suit was brought against the widow and daughter to have the land charged with the trust affecting the original property. *Held*, that the widow was properly joined in the suit. *DUNLOP v. DUNLOP* ..... 72

2. — *Following Trust Property—General Assignment by Trustee—Refusal of Co-trustee to join Suit—Costs.* C, wrongfully appropriated merchandise in his possession as one of the trustees of P's estate for the purposes of his own business. Subsequently it came into the hands of the defendants under a general assignment to them by C, for the benefit of his creditors. A suit having been brought by the plaintiff, as one of P's trustees, against C, and the defendants, for the recovery of any assets of the P, estate in their hands, the defendants offered to give up the merchandise to the plaintiff if he could identify it. This could not be done, nor could its value be determined by the plaintiff or the defendants until an inquiry was made by a referee of the Court. *Held*, that the defendant trustees were not liable for the costs of the suit. Where a trustee refusing to join with his co-trustee in a suit for the recovery of trust property was made a defendant to the suit, costs thereby incurred were not allowed against him. *BELYEA v. CONROY* ..... 227

3. — *Husband and Wife—Purchase in Name of Wife—Presumption—Rebuttal.* A purchase by a husband in the name of his wife is presumed to be an advancement to the wife, and the presumption will not be rebutted by the fact of the husband devising the property by will. *LEONARD v. LEONARD* ..... 576

4. — *Parent and Child—Purchase in Name of Child—Advancement—Presumption.* Where a mother makes a purchase in the name of her child, there is no presumption that an advance was intended. In such a case, it is a question of evidence whether there was an intention to advance. *MOORE v. MOORE* ..... 204

— *Creditors' deed—Failure to register—Execution—Registered judgment—Priorities* ..... 83  
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