

deed and setting it up against the donor, must show that he thoroughly understood what he was doing, or, at all events, was protected by independent advice. It has been almost laid down that where there is no power of revocation the deed will be set aside.² But later decisions have modified and so construed these cases so that it cannot be said that a voluntary settlement is voidable unless it contained a power of revocation. According to these authorities, the absence of a power of revocation is a circumstance to be taken into account in connection with the other circumstances of the case; the absence of advice by counsel given the grantor as to the propriety of inserting such a reservation stands on the same footing.³ But these authorities recognize beyond question the validity of such a power in a deed, and our own Courts, when the question has been presented to them, have been inclined to favour this plan for protecting the grantor.

It cannot be said that the grantor does not part with his power or dominion over the property conveyed because he retains a right to annul or revoke the deed. A power of revocation is perfectly consistent with a grant or the creation of a valid trust. It does not in any degree affect the legal title to the property. That passes to the grantee and remains vested, notwithstanding the existence of a right to revoke it. If this right is never exercised according to the terms in which it is reserved, before the death of the grantor, it can have no effect on the validity of the conveyance or the right of the grantee to the property.⁴

The argument that the reservation of a power of revocation nullifies the conveyance is answered by the opinion of the Court in the case of *Jones v. Clifton*.⁵ That case involved a conveyance by the husband to the wife of certain realty, the deed containing a clause reserving to the grantor "the power to revoke the grant in whole or in part, and to transfer the property to any uses he might appoint, and to such person or persons as he might desig-

² *Coutts v. Acworth*, Law Rep. 8 Eq. 558; *Wollaston v. Tribe*, Law Rep. 9 Eq. 44; *Everitt v. Everitt*, Law Rep. 10 Eq. 405.

³ *Toker v. Toker*, 3 De G., J. & S. 487; *Hall v. Hall*, Law Rep. 8 Eq. 430; *Phillips v. Mullings*, Law Rep. 7 Eq. 244.

⁴ *Stone v. Hackett*, 12 Gray. 232; *Van Cott v. Prentice*, 104 N.Y., 10 N.E. Rep. 257; *City of Providence v. St. John's Lodge*, 2 R.I. 46.

⁵ Reported in 101 U.S. 225.