

In this case some of the defendants have answered and others have failed to answer after publication; and all the allegations of the bill which would, if admitted or established, entitle the plaintiffs to the relief they ask, have been denied by the answers of the responding defendants, and have not been sustained by the proofs; therefore, as to them, that consideration which is common to all the bonds remains valid and unimpeached. But the same consideration cannot be deemed valid in favor of one as to the whole purchase money, and utterly invalid as regards another claimant, who rests his pretensions altogether upon the same consideration. Hence, as this consideration has been sustained by the responding defendants, it must be deemed valid as to all, although the bill might, in other respects, have been taken *pro confesso*, as against those who have not answered, and therefore the plaintiffs can obtain relief against none of these defendants. *Lingan v. Henderson*, 1 *Bland*, 236. (c)

**17** \* Whereupon it is decreed, that the injunction heretofore granted in this case, be, and the same is hereby dissolved. And it is further decreed, that the said bill of complaint, be, and the same is hereby dismissed with costs, to be taxed by the register.

John Glenn, as administrator *de bonis non* of Stephen Casenave, deceased, by his petition filed on the 24th of September, 1830, on oath, stated, that Stephen Casenave, one of the plaintiffs, died and administration of his personal estate was granted by the Orphans' Court of Baltimore, to James Walker, who died sometime about the year 1810; that at October Term, 1798, the death of Stephen Casenave was suggested, and entered upon the docket, which entry

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(c) *DORSEY v. DORSEY*.—The bill stated, that Edward Dorsey had given his bond to Ely Dorsey for the payment of £42 15s. 1d.; that the bond was lost; that the claim had been assigned to the plaintiff; that the obligor was dead; that his personal estate had been exhausted in the payment of his debts; and that he had devised his real estate to the defendants, in whose hands the bill prayed that the real assets might be charged with the payment of his debts. Some of the heirs answered, as to all of whom, upon the hearing, the bill was dismissed.

HANSON, C., 22d January, 1800.—As to the defendant Deborah Dorsey, executrix of Edward Dorsey, who has been regularly summoned, and stood out the process of attachment, and attachment with proclamations, and failed to appear and answer agreeably to law, the Chancellor is by law to take, and the bill is hereby taken *pro confesso*. And this case shews plainly the impropriety of directing the Chancellor absolutely to take any bill *pro confesso*. But inasmuch as the bill states, that the personal estate of the testator is exhausted, it does not appear; that the complainant can have any benefit from the said taking; and the Chancellor being authorized to decree what appears just; (1785, ch. 72, s. 19.) It is Decreed, that the bill as to Deborah Dorsey be, and the same is hereby dismissed, &c.