

the Court of Chancery, during the year 1845, to be invested: his failure to invest the same, his being required to account for his trust, his default therein, the revocation of his power, and the appointment of Gill, the complainant, as his successor. It states, also, that either before he received the trust funds, or while he had them, he contracted with the said John R. Dall, to loan him \$12,000, to be secured on his lands in Washington county: that in pursuance of such contract, Dall executed such mortgage, and sent the same to Schley for his inspection, and the inspection of the said female complainants, to whom it was submitted and approved of, and then returned to said Schley, to be put on record. That Schley, without the knowledge of his *cestui que trusts*, returned it again to Dall; that the same was not put upon record, and is either in the possession of Dall or Schley, or has been destroyed. The bill further states that Schley paid Dall \$6,000, and that Dall appointed him his agent, or made arrangements with him, unknown to complainants, as to how the other \$6,000 should be paid, well knowing that Schley had the funds to pay them in hand, and is therefore estopped from controverting the application of the funds by Schley, as respects the \$6,000 last mentioned. The bill also alleges an alternative equity on the ground of part performance of the contract, if not in writing, by the payment of \$6,000 to said Dall, by said Schley, as trustee: and it also alleges, that by the ignorance of the *cestui que trusts* of the fact, that the mortgage was not put upon record, and by their belief that said Schley had duly and properly invested the sum of \$12,000, they were lulled into a false confidence in the due execution of his duty, and so permitted the said Schley to receive other large sums of money, which they could and would have prevented had they known of his default in the premises.

The bill also alleges that a variety of judgments had been obtained against said Dall, of which the complainants pray an account may be taken; that some were confessed prior to their lien, others since; that certain of said judgments were void under the insolvent laws of Maryland; that said Dall and Schley are both insolvent debtors. It also further states that