

relying upon the security afforded by it are not shown to have lost or abandoned any remedy or redress against him, would, in my judgment, be in opposition to the plainest principles of justice.

But the attempt here, is, in part at least, so to charge this property for the benefit of parties who certainly did not trust Mitchell upon the faith of the conveyance, and who are not shown by any proof in this cause to have lost or abandoned any remedy, which but for the conveyance they would have pursued. Mitchell, it appears by the proceedings, was the guardian of his daughter, Maria, who subsequently intermarried with the complainant, William W. McClellan, and as such guardian settled an account in the Orphans' Court of Baltimore county on the 18th of April, 1825, by which it appears there was due from him to his ward, a balance of \$10,809 55. Afterwards, and after he had been removed from the guardianship, and after his former ward had attained the age of eighteen years, to wit, on the 12th of March, 1834, he passed what is called his fourth and final account, in which the former balance is brought forward, and charging interest upon that portion of it which consisted of cash, there is produced an aggregate of indebtedness amounting to \$14,891 14, and he craves to be allowed, and is allowed by the Court, for property and money delivered and paid over to his ward, a credit for that amount, as "per release recorded appears;" thus upon the face of the record settling the whole claim, and discharging himself from liability.

It has been urged by the defendant's counsel, that, as upon the face of this account nothing appears to be due, and as complainants have produced it as a part of their evidence, they are concluded by it, and their bill for this reason must be dismissed. In this view I do not concur. The answer of the defendants admits very explicitly that the balance due from Mitchell to his ward was not in fact paid, but as stated in the answer, "that the release was given with the express motive of relieving her father, who was without property or the means of livelihood;" "and that it never was the purpose of the