

Case No. 9,128.

MARSHALL v. DORSETT.

[4 Cranch, C. C. 696.]¹

Circuit Court, District of Columbia.

March Term, 1836.

ADMINISTRATORS—MARYLAND STATUTE—DECEASED WIFE—CHOSSES IN ACTION—TRUSTEE.

Under the act of Maryland, 1798, c. 101, cl. 5, § 8. the husband is the administrator of his deceased wife, and may sue for her choses in action not reduced to possession in her lifetime; although her property had been conveyed, in her lifetime, to a trustee, for the sole and separate use and benefit of her, and her executors, administrators, and assigns; she not having assigned the trust-fund in her lifetime, nor disposed of it by will or deed executed according to the terms of the trust.

Assumpsit for money had and received by the defendant [Amelia T. Dorsett] to the plaintiff's use. By a deed of trust, the property of the plaintiff [Robert Marshall] and his wife was conveyed to Mrs. Susan G. Beall, in trust for the sole and separate use of the plaintiff's wife, Anne Marshall, her executors, administrators, and assigns. The trustee, with Mrs. Marshall's consent, lent \$400 to the defendant, and took her note therefor, payable twelve months after date, to the said "Susan G. Beall, trustee for Anne Marshall, with interest in advance, for value received;" dated September 18, 1832. The wife died, and this suit was brought by the husband in his own name, who, by the Maryland act of 1798, c. 101, cl. 5, § 8, is entitled to all the rights of administrator to his deceased wife, and may sue for and recover her choses in action, not reduced into possession during the coverture.

R. S. Coxe, for plaintiff.

Brent & Brent, for defendant.

THE COURT (nem. con.) decided, that the husband, standing in the place of administrator, had a right to recover this debt, the wife not having, in her lifetime, disposed of the trust-fund by last will or deed executed according to the terms of the trust.

Verdict for the plaintiff, \$430.

[See Case No. 4,012.]

¹ [Reported by Hon. William Cranch, Chief Judge.]