CURRY and others, Assignees, etc., *v.* LLOYD and others.

(*District Court, W. D. Pennsylvania.* September 3, 1884.)

1. BANKRUPTCY—EQUITY OF CREDITORS.
   Creditors can work out equities only through the rights of the parties where there is no fraud.
2. SAME—ERECTION OF DWELLING FOR SON—CHARGE ON LAND.
   A banker, at a time when he was entirely free from pecuniary embarrassment, and apparently possessed of abundant means of his own, without fraudulent or wrongful intent voluntarily erected a dwelling-house upon his son's land without request of the son, who innocently acquiesced in the gratuitous act of his father, believing him to be a man of great wealth. The father suspended about the time the building was completed, in consequence of a general financial panic, and he was subsequently adjudged a bankrupt. Upon a bill filed by his assignees, *held*, that the voluntary expenditure so made by the father was not a ground for charging the son or his land.
3. SAME—EQUITABLE RELIEF DECREEABLE UNDER GENERAL PRAYER.
   A bill in equity charged that, in pursuance of a fraudulent conspiracy between grantor and grantee to defraud the creditors of the former, a voluntary deed of conveyance of land was made and subsequent improvements put thereon by the grantor, and the specific prayers of the bill were that the deed be declared null and void as against the creditors of the grantor, and for the reconveyance of the land and an account of rents. The proofs did not sustain any of the allegations of fraud, and it appeared that the deed of conveyance was for a valuable and adequate consideration. *Held* that, under the prayer for general relief, compensation for the value of the improvements was not decreeable.
4. SAME—DEALINGS BETWEEN PARENT AND CHILD.
   Business dealings between parents and children, or near relatives, are to be treated as are the transactions of other people, and if the *bona fides* thereof is attacked the fraud alleged must be proved.

In Equity.

George M. Reade and *George Shiras, Jr.*, for complainants.

Samuel S. Blair and *John M. Kennedy*, for respondents.

ACHESON, J. For many years prior to the transactions out of which this litigation arose, William M. Lloyd was a banker of good financial repute. He individually carried on the banking business under the style of Wm. M. Lloyd & Co., at Altoona, Pennsylvania, his place of residence, and in the name Lloyd & Co., at Ebensburg, Pennsylvania; and he was also a partner in the banking firms of Lloyd, Caldwell & Co., at Tyrone, Pennsylvania; of Lloyd, Huff & Co., at Latrobe and Greensburg, Pennsylvania; and of Lloyd, Hamilton & Co., at New York city. His credit stood very high, and was undoubted until after the financial crisis which came upon the country in the fall of 1873.

On the thirtieth of October of that year he was compelled to suspend; his financial difficulties, it would seem, having their origin in the New York house. He soon submitted a statement of his affairs to his creditors, who, at a general meeting, granted him an extension for one, two, three, and four years. Such was the confidence felt in his ability to pay under the extension that his neighbors in large numbers became his guarantors in different sums, the aggregate amount being $425,000. He resumed business on February 2, 1874.

He paid the first installment of his extended debts, but about the middle of August, 1875, suspended business a second time. On September 18, 1875, he executed a deed of voluntary assignment for the benefit of his creditors. On November 11, 1875, certain of his creditors filed a petition to have him adjudged a bankrupt, and he was so adjudged June 24, 1878. This suit is by his assignees in bankruptcy. The subject-matter of the bill is real estate, alleged to have been disposed of by Mr. Lloyd in fraud of his creditors, and personal estate, viz., mortgages, etc., alleged to have been transferred by him, either in fraud of his creditors or by way of unlawful preferential payments. The contest, however, is narrowed down to the real estate, the other claims having been abandoned, or not being pressed. The principal matter in controversy, and that to which most of the evidence relates, is a piece of land in the suburbs of the city of Altoona, having thereon erected a stone dwelling-house and other improvements. The *third* and *fourth* paragraphs of the bill concern this property.

The *third* paragraph, in substance, charges that William M. Lloyd, being insolvent, on November 11, 1871, made a fraudulent gift of said land, by deed of conveyance, to his son John Lloyd, one of the defendants, with intent to defraud his creditors, which gift John accepted, with the like fraudulent intent; and that the secret purpose of both was that John should hold the land for the benefit of William M. Lloyd and his family, or for the joint benefit of the father and son. The substance of the charge in the *fourth* paragraph is that William M. Lloyd, being insolvent, and acting in collusion with his son John, with intent to defraud his creditors, and in pursuance of a fraudulent agreement between him and John, erected a stone dwelling, with other improvements, upon said land, at a cost of from $40,000 to $50,000, "and that said conveyance was made, and the said large and valuable improvements put thereon, in order to prevent the just creditors of the said William M. Lloyd from having the benefit of the money expended in the purchase of the said land, and expended upon the buildings and in making the improvements put upon the said land." The specific prayers of the bill are that the deed of conveyance may be adjudged null and void, and John Lloyd be decreed to convey to the plaintiffs the land "and improvements thereon," and for an account of rents.

The answer traverses all the allegations of fraud; admits a conveyance on November 11, 1871, but denies that it was voluntary; alleges it was made in execution and performance of a contract between William M. Lloyd and John Lloyd, made in 1866, and sets up, in substance, the facts about to be stated.

In the year 1865 John Lloyd, then aged 24 years, who previously was a clerk in the banking-house of William M. Lloyd & Co., removed from Altoona to the state of Tennessee, where he settled and engaged in the business of farming and fruit culture, near the city of Nashville, upon a farm which he had bought with means given

him by his father. It cannot be doubted that the latter was then abundantly able to make such a gift, and the good faith of that transaction is unassailable. William M. Lloyd and John Lloyd both testify that in the year 1866 the former, who then owned nearly the entire stock of the First National Bank of Altoona, wrote to John proposing that he should give up his business in Tennessee and return to Altoona and take the cashiership of the bank, and, as an inducement to John to do so, offered to procure for and give him, in addition to his salary as cashier, the land here in question, and that John, by letter, accepted his father's proposition. These letters are not produced, but there is sufficient proof of their loss. And I may as well, at this point, say that it does not strike me as suspicious or surprising that they were not preserved, in view of the mutual confidence subsisting between the father and son. Moreover, after the deed was executed there was no reason for preserving them.

The testimony of the Lloyds, father and son, in respect to the contract between them, is corroborated by that of S. C. Baker. The land in controversy is part of the Beal farm, which William M. Lloyd, Thomas McCauley, and Mr. Baker jointly acquired in April, 1866; and these three were the grantors to John Lloyd in the deed of November 11, 1871, conveying him the land. Now, referring to that conveyance, Mr. Baker testifies: "Years before, there was an understanding between the three of us that William M. Lloyd was to have that property for his son John, who was then in the south." It is here worthy of mention that Thomas McCauley had died before the testimony in this case was taken. It is shown that as soon as John Lloyd could get ready to leave Tennessee he did so, and he returned to Altoona in the spring of 1867. He was immediately thereafter elected to the cashiership of the said bank, accepted the position, and entered upon the discharge of his duties, and has ever since continued in the cashiership.

The testimony of William M. Lloyd and John Lloyd is strongly confirmed by what occurred immediately after John's return to Altoona, and subsequently; the facts about to be stated being shown by indubitable evidence. About the first of April, 1867, John entered into exclusive possession of the land in question. The Beal mansion stood on the land, and John occupied it until the fall of 1867, when, finding the house uncomfortable on account of its dilapidated condition, he moved out. He then leased it to a tenant, and it was leased by him to successive tenants, who occupied it until some time in 1872. In 1868 he put a fence around the land, except on the side next his father's homestead property. Besides fencing, he ditched the land, and planted trees on it. His improvements, down to the date of his deed, (November 11, 1871,) had cost him from $1,700 to $2,000, while the rent he received was trifling. The land was assessed to John Lloyd in 1868 and thereafter, and the taxes paid by him, except that, by some mistake, it was omitted from the trien-