of the solicitor, but we have not been able to see in this record, with the possible exception of the reception and retention of a portion of the broker's commission, a single act which can be attributed to them as a wrong. We do not mean to say that the reception and retention of a portion of the broker's commission was a wrong. We do not deem it our present duty to pass judgment upon that.

It may be further observed, with respect to the alleged increase in the value of this land in the summer of 1890, that it was unimproved property in the outskirts of the city of Chicago, and that its value was largely speculative. Whether any great profit could be realized from it depended upon the growth of the city in that direction, and required the expenditure of large sums of money in the laying out of streets and the construction of such improvements as are common with respect to urban property. These facts were known to Mr. Kendal in the summer of 1890, and before the expiration of the period of redemption. We cannot believe that the trust company, with the like knowledge,—for Kendal's knowledge was its,—desired to embark in an adventure which required the expenditure of large sums of money, and the success of which was contingent and doubtful. Such a transaction would be wholly foreign to the business in which it was engaged. Upon the whole, we perceive no reason for the application of the doctrine invoked, that relief here should be denied upon the ground that it would be inequitable to grant it. The decree will be affirmed.

BOSWORTH v. HOOK.

(Circuit Court of Appeals, Seventh Circuit. January 4, 1897.)

No. 335.

EQUITY—REFERENCE TO MASTER—MASTER'S FINDINGS.

When a reference to a master has been made upon motion of one of the parties, and not by agreement of both, the master's finding has not the force of a verdict, or of the report of a referee; and, on exceptions thereto, the court must determine by its own judgment the controversy presented, and on appeal the reviewing court has the same power and responsibility.

Appeal from the Circuit Court of the United States for the Southern District of Illinois.

Bluford Wilson (Philip Barton Warren, of counsel), for appellant.

Thomas Worthington (Isaac L. Morrison, of counsel), for appellee.

Before WOODS, JENKINS, and SHOWALTER, Circuit Judges.

WOODS, Circuit Judge. The essential question in this case is one of fact. The intervener, Frances Hook, by her petition claimed to be the holder of a promissory note made by the Chicago, Peoria & St. Louis Railway Company for the rental of 100 gondola cars obtained of the Elliott Car Company, of Gadsden, Ala., under a contract of lease in the nature of a conditional sale. The receiver answered, denying knowledge and insisting upon strict proof of the facts alleged, and on motion of the receiver the court ordered a reference to a master to hear evidence and report the same to the court with his conclusions

thereon. Overruling exceptions to the master's report, which was in favor of the petitioner, the court ordered that the receiver pay to her, within ten days, the sum of $12,928.42, reported due, and that, in default thereof, the master should advertise and sell the cars for which the note was given, or so many of them as necessary to realize the sum due.

One of the contentions of the appellant is that the note in controversy had been paid by the maker before it came into the possession of the appellee, and in our opinion the preponderance of the evidence is distinctly that way. It is clear, beyond dispute, that the note was paid by a check, drawn in the usual course of business, upon a fund deposited in the name of T. J. Hook & Co., derived mainly from the earnings and receipts of the Chicago, Peoria & St. Louis Railway Company, and that entries showing the note paid were made at the time in the books of the company; and we are convinced that it was an afterthought, due to the known insolvency of the railway company and the probability of an early receivership, to attempt to revive the note on the pretense of a purchase by the intervener, who was herself the cashier of the railway company,—her brother, W. S. Hook, being the president, and Marcus Hook, another brother, being the secretary, treasurer, and auditor, and all three being members, and constituting a majority, of the board of directors. The note having been paid with money of the maker, it is not material to inquire whether, in the same fund out of which the money for the purpose was checked, there were or had been deposited money which belonged to the petitioner, or to her aunt, Mrs. Ellen C. Spencer, with which the payment might have been made. The name, T. J. Hook & Co., stood simply for W. S. Hook, and for money of others deposited in that name he became responsible to the owner. It is not shown that any money of the petitioner, whether held in her own right or in right of her aunt, as she testified before the master that it was, though it is not so averred in her petition, went to the use or benefit of the railway company. There is, therefore, no ground upon which she can have a demand against the receiver, or against cars or other property of the railway company in his possession.

In reaching this conclusion, which we deem it sufficient to announce without going into the details of evidence, we have not been unmindful of the rule, often stated and reiterated, that the findings of a master, concurred in by the court to which they were reported, are presumptively correct, and will be permitted to stand, unless obvious error of law or important mistake of fact has intervened. Furrer v. Ferris, 145 U. S. 132, 12 Sup. Ct. 821; Crawford v. Neal, 144 U. S. 585, 12 Sup. Ct. 759; Walker v. Kinnare, 76 Fed. 101. When, as in this case, the reference was made upon motion of one of the parties, and not by agreement of both, the master's finding has not the force of a verdict, or of the report of a referee, and, on exceptions thereto, the court must determine by its own judgment the controversy presented (Kimberly v. Arms, 129 U. S. 512, 9 Sup. Ct. 355); and, on appeal, the court of review, of course, has the same power and responsibility.

The decree of the circuit court is reversed, with direction to dismiss the petition.

RUDLAND et al. v. MASTIC et al.

(Circuit Court, D. Washington, N. D. December 22, 1896.)

EQUITY—JURISDICTION—STATUTE OF LIMITATIONS—IGNORANCE OF LEGAL RIGHTS.

The fact that one claiming the legal title to land alleged to have been patented to the heirs at law of her father has lived for many years in a wild and remote region, by reason of which she was ignorant of the issuance of the patent and the sale of the land by the administrator of her father's estate, does not entitle her, after her right to maintain ejectment has become barred, to relief in equity against the purchaser at the administrator's sale.

Lindsay, King & Turner, for complainants.
John B. Allen, for defendants.

HANFORD, District Judge. This is a bill in equity by Sarah Rudland and her husband, James Rudland. The object of the suit is to establish the title of Sarah Rudland as the owner of a tract of land in Jefferson county, in the state of Washington, under a patent from the United States to the heirs at law of James Tucker, deceased, and to recover possession of said land. The bill of complaint avers: That said James Tucker settled upon and claimed said land under the act of congress approved September 27, 1850, entitled "An act to create the office of surveyor general of public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," and the acts amendatory thereof, commonly known as the "Oregon Donation Law" (9 Stat. 496; Abb. Real Prop. St. Wash. T. 1099). That after the death of said James Tucker the administrator of his estate made the required proofs of residence and improvement on his part. That the complainant Sarah Rudland was born in the year 1860, and is the child of said James Tucker and an Indian woman, who lived and cohabited together as man and wife. Said James Tucker died during the infancy of Sarah Rudland, in the year 1864. After making proof in the land office of said claim, the administrator sold the land under an order of the probate court of Jefferson county, and the defendants claim title thereto as vendees of the purchaser at said sale. They are now in possession of the land, and have been continuously in possession since the year 1883. The patent was issued on the 9th day of June, 1876, to the heirs at law of James Tucker and their heirs, and the bill of complaint avers that Sarah Rudland is the only surviving heir of James Tucker, and the grantee to whom the title was conveyed by said patent. After the death of her father, and during her infancy, Sarah Rudland was taken by her mother to live among the Indians in British Columbia, and continued to live a savage life in British Columbia and Alaska until her marriage to James Rudland, in the year 1877; and by reason of having so lived she was ignorant of her rights as owner of said land until the year 1895. The bill also charges the defendants with having fraudulently obtained possession of the said patent, and having kept the same in their possession for the purpose of concealing from Sarah Rudland knowledge of her title to the land. It is the theory of this bill that the patent vested the title in