



Suit to Avoid Fraudulent Conveyance. Allegation of Grantee's Knowledge of the Fraud

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CORRESPONDENCE.

 SUIT TO AVOID FRAUDULENT CONVEYANCE—ALLEGATION OF GRANTEE'S
 KNOWLEDGE OF THE FRAUD.

Editor Virginia Law Register :

On page 321 of the September, 1899, issue of the VIRGINIA LAW REGISTER, you refer to the opinion of the Virginia Court of Appeals delivered in the suit of the *American Net and Twine Co. v. Mayo*. You say that the court decided that "in a bill to set aside a fraudulent conveyance there need be no allegation of notice of the intended fraud on the part of the grantee." I respectfully submit that a careful examination of the opinion in question will show that the conclusion reached by you is erroneous. The bill filed in this suit alleges that the deeds were not upon a consideration deemed valuable in law, *but* were executed with intent to hinder, delay and defraud the complainant, and since the conveyances were made the grantor has no property out of which the judgment in favor of the complainant against him can be made. The Court of Appeals does not decide that it is not necessary to allege participation by the grantee in the fraudulent intent of the grantor, but it indicates that this is necessary, and decides that the bill did allege in sufficient language participation by the grantee in the grantor's fraudulent intent. The allegation in the bill above referred to was answered by the grantee in two separate paragraphs. In one he denied that there was want of consideration; in the other he denied that the grantor had any intention of defrauding the complainant, and that if he had any such intention he, the grantee, did not participate in it. The grantee failed to demur to the bill, and he did not object to any of the evidence introduced to prove that his grantor executed the conveyances with a fraudulent intent, and that he participated in such intent. These omissions, if we may use the term, on the part of the grantee, did, I think, go a great way in shaping the opinion of the Court of Appeals. The court concluded that the language used in the bill was sufficient to notify the grantee that he was privy to his grantor's fraudulent intent, and that he would be required to prove the contrary if he could. It does not conclude that an allegation of notice of the intended fraud on the part of the grantee is not necessary.

Yours truly,

P. A. AGELASTO.

Norfolk, Va.

 JUDGE GANNT AND HIS TRIBUTE TO VIRGINIA.

Editor Virginia Law Register :

Here is a judicial tribute to the Virginia of *ante bellum* days, as handsome as that paid the State by Senator Hoar, in his splendid address before the Virginia Bar Association last summer.

The organ of the court in this case was the Chief Justice James B. Gannt, a Georgian by birth, and a Missourian by adoption for the last thirty-one years. At the age of sixteen, he joined the Twelfth Georgia Infantry, and was assigned to the Army of Northern Virginia. His regiment was part of Stonewall Jackson's