

therefore, from the very nature of the case, the relief necessary to meet it, can only be obtained, if at all, in a Court of equity. It is laid down, that if a man by age, or disease is reduced to a state of debility of mind, which though short of lunacy, renders him unequal to the management of his affairs, the Court will, in respect of his infirmities, appoint a guardian to answer for him, or to do other acts, as his interests, or the rights of others may require. *Lering v. Caverly*, *Prec. Chan.* 229; *Sheldon v. Aland*, 3 *P. Will.* 111, *note*; *Bird v. Leferre*, 4 *Bro. C. C.* 100; *Wilson v. Grace*, 14 *Ves.* 172; *Attorney-General v. Waddington*, 1 *Mad. Rep.* 321; *Howlett v. Wildraham*, 5 *Mad.* 423; *Wartnaby v. Wartnaby*, 1 *Jac. Rep.* 377; *Ex parte Clarke*, 2 *Russ.* 575; *Chambers v. Donaldson*, 9 *East.* 471; *Whitehorn v. Hines*, 1 *Mun.* 557; *Horner v. Marshall*, 5 *Mun.* 466; 1 *Fonb.* 64; *Mif. Plea.* 103; *Prac. Reg.* 71. And it is said, that where one who could not be proved a lunatic was relieved from a deed obtained of him by fraud and imposition upon his weakness, it was further ordered, that he should not execute any future deed, but with the consent of the Court. *Lord Donegal's Case*, 2 *Ves.* 408.

It was upon these authorities, that I passed the order of the 17th of April last. I deemed it then necessary to extend to the plaintiff the especial protection of the Court; because of her age and infirmities. And if by reason of that infirmity merely, the Court can in no way cause that to be done, which when in a sound state of mind she had bound herself to do, the most manifest injustice might ensue; and that too not from any substantial, but merely because of a technical or formal objection. If, as has been said, this Court can declare, that she shall not hereafter execute any deed without its consent; the converse of the proposition seems necessarily to follow—that this Court can by its consent or decree direct a conveyance to be made by her to the defendant according to the promise by which she is bound.

There can be no doubt, that a specific execution of this promise would be decreed against the legal representatives of the plaintiff * if she were dead. *Goilmere v. Battison*, 1 *Vern.* 48. And **407** it is equally clear, that if she were now in her sound mind she herself might comply with this promise either by a last will devising her property to the defendant; or by a deed to take effect after her death. *Drakeford v. Wilks*, 3 *Atk.* 540. But she is not now, nor is she ever likely again to be in a mental condition, understanding of herself, to execute any such instrument as can pass any right in her property. It has, however, been expressly provided, that persons *non compos mentis* seized or possessed of any lands bound by an agreement to convey, made by some person having a right to make such agreement, and therefore liable to a decree for conveyance on a suit for specific performance, shall convey and assure such lands in such manner as the Court of Chan-