

Baltimore County Court, on the equity side of which this bill was filed, ordered an injunction, but no order has been passed, upon the application for the appointment of a receiver.

The inventory and appraisement of the property and crops referred to, and made part of the agreement between the parties, was as follows :

Real estate, valued at	\$6,500
Personal estate, valued at	2,211
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	\$8,711

The answer of the defendant, alleges, that the complainants, after the sale to him, sold and disposed of portions of the personal property, and otherwise dealt unfairly with defendant. He denies the allegations against him of fraud—avers that complainant took possession of the bottling establishment in November, succeeding the date of the contract, and still holds and enjoys the same, and the profits thereof. That he is solvent in his circumstances, and fully able to pay any claim which complainant can establish at law. In addition to the implied objection raised by the answers to the jurisdiction of the court to grant relief upon this bill, the defendant, by specific exceptions to its averments, has presented the question in a more distinct form, and it, therefore, becomes necessary, to inquire whether the complainants, under the pleadings, are entitled to relief.

The bill, it is true, charges, that the defendant in getting possession of the deed and property of the complainants, has perpetrated a fraud, but the contract is not, on that account, sought to be rescinded, and the parties remitted to their original rights. There can be no doubt, that if a fraud has been practiced upon the complainants, they would be entitled to disaffirm the agreement, *ab initio*, or they might affirm the agreement, and bring an action for the non-performance of it by the defendant. *Murphey vs. Barron*, 1 *Har & Gill*, 258.

In this case, though fraud is charged, the complainants have adopted the latter alternative, and offering the agreement, seek to enforce its stipulations against the defendant, by compelling him to pay the purchase money, which it is alleged, is a charge