

if she were dead.(k) And 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.(l) But she is not now, nor is she ever likely again to be in a mental condition, understandingly 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 Chancery shall direct;(m) and that in all cases where a decree shall be made for a conveyance, and the party shall neglect to comply therewith, such decree shall be considered to have the same operation as if the conveyance had been executed conformably to such decree.(n)

Upon the whole, I am, therefore, of opinion, that there is now no other course left but to appoint a guardian for the plaintiff, who shall be directed to execute, in her name, to the defendant such a deed as shall be deemed a sufficient specific performance of her promise, to take effect after her death.

Whereupon it is *decreed*, that the said defendant, *Charlotte C. D. Owings*, be and she is hereby directed and required forthwith to bring into this court the original instrument of writing in the proceedings mentioned, purporting to be a deed made by the said plaintiff, *Colegate D. Owings*, unto the said defendant, *Charlotte C. D. Owings*, on the 15th day of June 1824, to be cancelled and annulled; and the same is hereby declared to be null and void; and the record which hath been made of the said instrument of writing among the land records of Baltimore County Court shall be and the same is hereby declared to be utterly void and of no effect whatever, because of the said instrument of writing having been obtained from the said plaintiff *Colegate D. Owings* by fraud and at a time when she was *non compos mentis*.

And it is further *decreed*, that *William Gwynn* of the city of Baltimore be and he is hereby appointed guardian of the said plaintiff *Colegate D. Owings* for the purpose, and with full power

(k) *Goilmere v. Battison*, 1 Vern. 48.—(l) *Drakeford v. Wilks*, 3 Atk. 540.
 (m) 1773, ch. 7, s. 1; 4 Geo. 2, c. 10; Kilt. Rep. 249; *Bullock v. Bullock*, 1 Jac. & Wal. 583.—(n) 1785, ch. 72, s. 13; 1826, ch. 159.