

since, and upon which he has expended large sums of money in improvements, with the knowledge and under the advice of his father, and his assurance that the title was in him by virtue of the gift and possession as aforesaid. And this defendant, assuming his title to said land to be good, disclaims all interest in the residue of the real estate of his father.

Pressed for time, and seeing no advantage in dwelling at length upon either the facts or the law of this case, I shall proceed very briefly to state the grounds upon which I have formed the opinion that the defendants, Hardy and wife, and Mordecai Haines, as the cause is presented, have succeeded in showing that a partition or sale of the land claimed by them should not be decreed.

They are defendants here, and it cannot be necessary to refer to authorities to show that a much weaker case will constitute a good defence than would be required if they were complainants, asking the active interposition of the court in their favor. A stronger illustration of this principle could not easily be found, than in the case of *Crane vs. Gough*, recently decided by the Court of Appeals, upon an appeal from this court, and reported in 4th *Md. Rep.*, 916. It is a familiar and acknowledged principle, as shown in 3 *Md. Ch. Decisions*, 133, and the authorities there cited.

These defendants, therefore, as I conceive, are not bound to make out a case which would entitle them to ask for the specific performance of the engagement set up in their answers. They do not ask this court to decree them a conveyance, or to do anything for them. All they require is, that the land which they claim may not be partitioned or sold. In other words, they ask to be let alone, and this request, under the circumstances of the case, I think, should be accorded to them.

There can be no doubt, I think, that these defendants, Hardy and wife, and Mordecai Haines, took possession of these parcels of land, with a clear and distinct understanding, founded on the positive promise of Nathan Haines, that they were to have them in absolute title, and that they, and particularly Hardy, made large and expensive improvements upon them, with the knowledge and consent of the father, and upon the faith of his engagement to give them the lands.