virtue of an act of Assembly in such case made and provided, further continued before the Court of Appeals here, until the second Monday in June next, the same day is given to the said parties there to hear the judgment of the Court of Appeals here, of and upon the said premises, and so forth. — At which said second monday in June being the fourteenth day of the said month, in the year of our Lord one thousand eight hundred and forty seven come again into the Court of Appeals here the parties aforesaid, by their attorneys aforesaid, But because the Court of Appeals here are not yet advised what judgment to give of and upon the premises, a day therefore is further given to the parties aforesaid, with the consent of the said parties, by their attorneys aforesaid, to come before the Court of Appeals here on the first Monday in December next, to hear the judgment of the Court of Appeals here, of and upon the premises, for that the Court, now here, as yet are not &c. —

And now at this day to wit, the said first Monday in December being the sixth day of the said month, in the year of our Lord one thousand eight hundred and forty seven come again into the Court of Appeals here, the parties aforesaid, by their attorneys aforesaid, Whereupon as well the record and proceedings aforesaid, and the decree given in form aforesaid as the matters aforesaid, by the said Elizabeth Baynard above for error assigned, being seen, and by the Court of Appeals here fully understood, and mature deliberation thereupon had, for that it appears to the Court of Appeals here, that there is error in the record of proceedings aforesaid and also in the giving of the Decree aforesaid, Therefore the Court of Appeals here proceed to passes such a Decree as the County Court of Baltimore sitting as a Court of Equity should have passed. —

Eliza, Baynard, Appellant,
vs.
Israel Morris, Jacob Paul Jones, W. Norris and wife and Rachel Heide, Appellees. —

Court of Appeals, Western Shore. — Dec. Term 1847.
— No. 44. —

This cause coming on for hearing and having been fully argued and considered by the Court. — It is thereupon this thirteenth day of March in the year of our Lord one thousand eight hundred and forty eight, by this Court and the authority thereof ordered adjudged and decreed that the Decree of Baltimore County Court, sitting as a Court of Equity in this cause made on the 6th of February 1846 and from which the appeal, in this case was prayed be and the same is hereby reversed and annulled with costs in both Courts to be paid to the appellants by the appellees, except as to that part of said decree which decrees that the Bill be taken pro confesso against the absent defendants which said part of said decree is hereby and by the authority of this Court affirmed. —

And this Court being of opinion and so adjudging and decreeing that the mistake alleged by the Complainant in her Bill in this cause to have been committed by the commissioners appointed to allot and divide the estate of the late George Heide amongst

the parties entitled to the same under the will of said Heide is fully established by the evidence in this cause and that said evidence clearly shews, that the said commissioners in their returns, to the Orphans Court of the allotments, made by them of said estate under the will of said Heide did by mistake in said returns assign and allot to the complainant (Mrs. Baynard) Lot B on Franklin Lane, mentioned in Complainants Bill and being the lot which was conveyed to said George Heide by James Hutchings by deed bearing date the 2d. August 1792 instead of Lot A on Cheapside also, mentioned in said Bill, being the lot which was conveyed to said George Heide by Richard Jones by deed bearing date the 21st January 1805, which last mentioned lot was the lot intended to have been assigned to the complainant, and also that the said commissioners in their said returns did by mistake in said returns of their allotment, assign and allot to the defendant Rachel Heide as part of her dower with remainder over to the defendant, Mary Anne Norris said lot A on Cheapside instead of said Lot B on Franklin Lane the said Lot B, being the lot which was intended to have been by them allotted to said R. Heide and Mary Anne Norris. —

And this Court being also of opinion, and so adjudging and decreeing that the said Complainant (Mrs. Baynard) is entitled to have said mistake corrected against the said defendants Morris and Jones the parties claiming under mortgage from Mrs. Heide and Norris and wife, as well as against the said Mrs. Heide and Norris and wife, and to have by a decree of Baltimore County Court sitting as a Court of Equity a Trustee appointed and directed to convey the aforesaid Lot A, to the said Complainant (Mrs. Eliza Baynard) her heirs and assigns forever, and also for the delivery of the possession to her of said Lot A, by the said Morris and Jones and also for an account of the rents and profits received by the Appellees or any of them from said Lot A and to a Decree for the payment to her the complainant of the amount which may be found due to her, on such accounting. — And also that the said defendants Morris and Jones are entitled by said decree appointing a Trustee to convey said Lot A to the complainant to have it also decreed and directed by said Decree that the Trustee so appointed shall convey to the said Morris and Jones the said Lot B, to be held by them as mortgagees in the same manner and upon the same terms which are specified in the deed of mortgage executed to them by the said defendants Rachel Heide, and William Norris and Mary Ann his wife, which is explicite with the answer in this cause of said Morris and Jones bearing date the 16th June 1840. — It is therefore by this Court, and the authority thereof further ordered and decreed that this cause be and the same is hereby remanded to the said Baltimore County Court as a Court of Equity, in order that the Complainant may have relief by a decree of said Court in conformity to the principles of this decree, and that such further proceedings may be had in this cause as are required by this decree and the rules of Equity. —

(Signed) Thos. B. Dorsey —
E. F. Chambers —
A. C. Magruder —

Test —
Richard W. Gill, Clerk —