no one can doubt that there is on the part of the witness great mistake. If the witness has stated the fact accurately, then the complainant has not, in his Bill, stated the amount he really has paid. He claims to have paid the sum of four thousand, nine hundred and ninety nine dollars and some interest. The Bill states that the complainant paid the purchase money. The testimony of Grove in answer to the 5th Inty, is. that Hollada has furnished as much money as paid his half of the land and it took the two hundred acres to pay the witness half, and in his answer to the 6th Inty; says: that it did not pay more than the interest and costs, that had accumulated on the original sales and Butterbaugh had to pay some of the purchase money in improvements that stood against him. I have already stated that the witness must be in error, when he swears that the six thousand dollars paid to Finley, was exhausted in the discharge of the interest and costs, &c. as the entire interest and costs could not exceed Nineteen hundred dollars: thus leaving large excess to be applied to the Finley claim, under such circumstances Hollada could not, and indeed did not, pay the money as averred in his Bill. The proceeds of the land sold to Butterbaugh was understood and intended to be applied to pay the part for which Grove was liable, and in no event could he be answerable for that amount, after such proceeds was paid to Finley. Neither the Bill or the witness seeks to establish the payment by Hollada of any part of the money through the sale of the land to Butterbaugh. The answer of the witness Grove to the 1st and 3d Interrogatories, states that the money was furnished and advanced to him by Hollada, and in the absence of such a pretence; and believing as I do, that the amount which the complainant says he paid was not indeed could not have been paid - and the law requiring the strongest proof in cases of this character to establish a resulting trust; I have determined to dismiss the complainant's Bill and dissolve the Injunction. It may be thought proper that I should pass a partial decree, that is a decree protecting Hollada in the possession of an undivided part of the land, or in force his lien for the money he really paid &c. This could not be done as the proof shows the witness in such a questionable light and leaves the amount (if any) he paid in such doubt, that I cannot feel safe in so doing. The Bill is not for the enforcement of an equitable lien either for the whole or part of the purchase money, and if it were, the reasons already assigned for refusing to give relief upon the testimony of Grove, will apply as well to the whole as to part. The evidence all being parol and received with great caution. See 2. Sugdens Vendors 158: 10 Vesey 517 where it is stated that the admission by parol, and testimony in which no fact or circumstance is sworn to which was capable of being contradicted, and there being no corroborating circumstances and standing unsupported, and in some degree contradicted by the circumstances, was enough to induce the Court to refuse the application of the trust &c. See also Hilliards Abridgement Ch. 23. Placaturns 15 page 211. The author says, in regard to implied and resulting trust that the payment of the money must be clear and undoubted, of so positive a character as to leave no doubt of the fact and at the same time so clearly define the trust as the Court may see what is requisite for its due execution. Evidence of naked declarations made by the nominal purchasers is most unsatisfactory, being so easily fabricated

and from the impossibility of contradicting it &c. Grove is the brother in law of Hollada, and nothing is before the Court but his testimony to sustain the case, and that so much contradicted by the circumstances, that I have determined to dissolve the injunction and dismiss the complainants' Bill as to all the land.

Thomas Perry

And thereupon the said John W. Hollada, by his Solicitor aforesaid, on the 9th day of November 1852, prays an appeal from the decree aforesaid, to the High Court of Appeals of the State of Maryland, and it is granted him: whereupon the said John W. Hollada by his Solicitor aforesaid files in Court here a certain writing obligatory, commonly called an appeal Bond and which is as follows, to wit,

Know all Men by these presents, That we John W. Hollada and Joseph G. Protzman of Washington County, and State of Maryland are held and firmly bound unto Adam Shoap, Israel Knode, John F. Dellinger, Martin Eusminger, Thomas Martin, in the full and just sum of Eighteen hundred dollars to be paid to the said Adam Shoap, Israel Knode, John F. Dellinger, Martin Eusminger and Thomas Martin or their certain Attorney, their Executors, administrators or assigns to which payment well and truly to be made and done we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents sealed with our seals, and dated this day of August in the year of our Lord one thousand eight hundred and fifty two. Whereas, at a Circuit Court for Washington County, as a Court of Equity, began and held at Hagerstown, in and for the County aforesaid, on the first Monday of February, in the year of our Lord one thousand eight hundred and fifty two, in a certain cause therein depending between the said John W. Hollada Complainant, and the said Adam Shoap, Israel Knode, John F. Dellinger, Martin Eusminger and Thomas Martin, defendants, being No 979 on the Docket of said Court, it was ordered and adjudged that the Bill in the above cause be dismissed: from which said Decree the said John W. Hollada prayed an appeal to the next Court of Appeals of the State of Maryland. Now the condition of the above obligation is such, that if the above named John W. Hollada shall not cause a transcript of the record and proceedings of the said Decree to be transmitted to the Court of Appeals to be holden at the City of Annapolis within the time required by law, and prosecute the said Appeal with effect; and also pay and satisfy to the said Adam Shoap, Israel Knode, John F. Dellinger, Martin Eusminger and Thomas Martin, their executors, administrators or assigns, in case the said Decree shall be affirmed as well the cost and charges which have already accrued in the premises, as also all costs and charges that may be awarded by the said Court of Appeals; then the above obligation to be and remain in full force and virtue, otherwise of no effect.

Signed sealed and delivered in the presence of William Grove as to Hollada. J. Nesbitt as to Protzman

John W. Hollada (Seal)
Joseph G. Protzman (Seal)

Which being read and heard, and the securities in the said bond being by the Clerk of the Circuit Court here approved. It is thereupon