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CONTRACTS OF INSANE PERSONS IN NEW YORK.

Although the fundamental law concerning the contracts of insane persons is fairly well known, considerable confusion exists in the application of the law to particular cases. It is undoubtedly true that one who is so deficient mentally as to be unable to comprehend the force of his bargain in making a binding agreement with another, cannot bring to that transaction one of the "minds" necessary for the "meeting of minds" so essential to a contract, and thus his alleged contract would be a nullity.¹ The unfortunate consequences which flow from this view, however,—some of them not tending at all to the protection of the lunatic—have led to a general acceptance of the doctrine that the lunatic's contracts are voidable and not void.² From this conclusion it follows incidentally that such contracts are binding until disaffirmed and cannot be attacked by third parties or by the sane party to the bargain.

Before discussing further the voidability of lunatics' contracts, let it be understood that the contracts of an insane person made while under guardianship or commitment are not to be considered under the general rule as stated above. Such contracts are absolutely void, the inquisition and adjudication of the Court as to the status of the lunatics being binding on the world.³

Lunacy proceedings, moreover, give rise to a *prima facie* presumption that the subject of the inquiry was incapable of contracting, prior to the proceeding, during any period which was overreached by the finding of the Jury.⁴

The decisions of various jurisdictions on the effect of the contracts of insane persons, with reference to whose capacity there has been no adjudication, are not at all uniform. In general, to determine whether one is incapable of making a binding contract or not, depends upon whether "he was capable of understanding its terms or forming a rational judgment of its effect on his interests."⁵ "Mere weakness of mind or partial insanity, or monomania, unconnected with the subject matter of the contract is not

¹Dexter v. Hall, 15 Wall 9.

²Blinn v. Schwarz, 177 N. Y. 252.

³Hughes v. Jones, 116 N. Y. 67. N. Y. Code of Civil Procedure 2320 *et seq.*

⁴Hughes v. Jones, *supra*.

⁵Pollock's Principles of Cont. p. 81.

sufficient."⁶ A man may be suffering from a defect of mind which is unquestioned and which may be very serious and yet be capable of entering into a binding contract. The rule is analogous to that in establishing testamentary capacity, and if the mental condition was such that "the act was the intelligent act of the individual, based upon his intelligent and rational judgment, with sufficient mental power to understand the nature of his property or of the business he was transacting", the contract is binding.⁷ In a recent New York case, the grantor in a deed was suffering from melancholia, and was obsessed with the idea that he and his family were doomed to financial disaster. He subsequently, as a result of this delusion, killed himself and his sons. The Court upheld his deed as valid, saying that some connection must be shown between the grantor's insane delusion and his deed.⁸

Assuming that an individual is so mentally deficient, within the rule as laid down above, as to be incapable of a binding contractual act, but not under any legal commitment, to what extent are his contracts voidable? The sane party to the contract may or may not have had knowledge of the insanity; the contract may be fair, reasonable and even beneficial to the insane person; the contract may be partly or fully executed and the insane person unable to place the other party in *statu quo*. How far do these considerations affect the voidability of the contract? In the law of infancy there seems to be a tendency recently to restrict the absolute right of infants to avoid, to the extent that if possible the Court shall adjust the rights of the parties equitably, and make the privilege of the infant more and more a shield rather than a sword. So, with regard to the contracts of insane persons, much confusion has arisen from the efforts of Courts on the one hand to protect the ward of the Court—the insane person—and on the other hand to refrain from penalizing innocent persons dealing with such incompetents.

The result is that in very many cases the contract of one admittedly mentally incapable of realizing the nature and effect of his act is held absolutely binding. This is of course at variance with the original proposition with reference to the meeting of minds necessary to every contract, but not so anomalous in view of the more modern idea that actual mental assent is not essential to a contract, but merely an apparent assent gleaned by each party

⁶Lawson on Contracts, Par. 161.

⁷Moritz v. Moritz, 153 App. Div. 147.

⁸Moritz v. Moritz, *supra*.

from the overt expressed intention of the other. This basic and theoretical difficulty being disposed of, the consideration which moves the Court in setting aside the contracts of incompetents is an attempt to relieve the incompetent from oppression, where to withhold the relief would be a hardship. But a disposition which works a hardship on the sane person in order to relieve the incompetent should not follow from such a principle.

In a leading English case it seems to be established broadly that the insanity of one party to a contract does not entitle that party to any relief, unless the other party knew of the insanity,—and this whether the contract is executed or executory.⁹ Following this case, in many instances the English Courts seem to have wholly withdrawn their protection from incompetents because some hardship would result to the other party.

The Courts in many jurisdictions have refused to adopt a rule such as is stated in the principal English case, adhering to the doctrine that the right of insane persons and infants is absolute and paramount, and superior to all equities of other persons—that if the right to avoid be restricted the purpose of the law to protect those who cannot protect themselves is defeated.¹⁰ On the other hand, the right to rescind is equitable and there seems to be no potent reason why the maxim “he who seeks equity must do equity” should not be applied to these cases. It is surely a harsh doctrine that an innocent person who chances to deal with an incompetent does so at his peril, and cannot have adequate protection in a Court of equity and be heard to plead his ignorance and good faith.¹¹ This may have been the law in cases of infancy but the analogy between cases of infancy and insanity is not complete. The status of minority is “tangible, definite and ascertainable” compared with the “subtle, elusive and sporadic condition of mental unsoundness.”¹²

The case of *Imperial Loan Company v. Stone*, *supra*, may be considered as the leading case typifying the recent tendency of the Courts of most jurisdictions to give the contract of an insane person so much effect as to remove it beyond that of a mere nullity, and to consider the facts and circumstances surrounding the contract, particularly its fairness and the attitude of the other contracting party. An examination of New York cases in the light

⁹*Imperial Loan Co. v. Stone*, I. Q. B. 599.

¹⁰*Hovey v. Hobson*, 53 Me. 451.

¹¹2 Storys Eq. Jur., p. 1365 d.

¹²*Coburn v. Raymond*, 76 Conn. 484.

of the doctrine expressed in this decision may give us some idea of what the law of this State is. In the case of *VanDeusen v. Sweet* it is stated that the deed of an incompetent was not voidable but absolutely void—never having “any legal existence or vitality.”¹³ This case has been so “explained”, however, as to be practically overruled. In *Blinn v. Schwarz* the Court says that the word “void” was used with a “flexible meaning” and really meant “voidable”.¹⁴ In the case of *Mutual Life Insurance Company v. Hunt* (decided twelve years before the principal English case) the opinion coincides in the main with the doctrine in the *Imperial Loan Company* case, *i. e.*, that the insane party could not rescind where the contract was fair, and where the sane party had no knowledge of the insanity of the other.¹⁵ It must be considered, however, that the Court there calls attention to the fact that the contract was executed and the sane party could not be put in *statu quo*. The *Imperial Loan Company* case contains no such limitations, but states broadly: “A contract made by a person of unsound mind is not voidable at that person’s option, if the other party to the contract believed at the time he made the contract that the person with whom he was dealing was of sound mind. In order to avoid a fair contract on the ground of insanity the mental capacity of the one must be known to the other of the contracting parties.”

From the *dicta* in the case of *Mutual Life Insurance Company v. Hunt* it may fairly be assumed that in New York a purely executory contract, or any bargain in which the consideration can be restored, may be rescinded, even though the other party was ignorant of the insanity.¹⁶ The Courts of Georgia have laid down such a rule, and it seems to be a beneficial modification of the rule in the *Imperial Loan Company* case, because a contrary rule would mean the absolute enforcement of the contracts of an insane person unless bad faith could be shown on the part of the other party, and it is difficult to see how much more protection would be afforded to lunatics under such a rule than to sane persons.¹⁷ The good faith of the sane party would only be material then, in the case of an executed contract in which the consideration could not be restored to the sane party. The rule in England seems to go to the extent that even if the consideration did not

¹³51 N. Y. 378.

¹⁴177 N. Y. 260.

¹⁵79 N. Y. 541.

¹⁶*Mutual Life Ins. Co. v. Hunt, supra.*

¹⁷*Wooley v. Gaines*, 114 Ga. 122: *Williston on Sales*, p. 38.

inure to the benefit of the lunatic, the contract cannot be set aside. It seems to be assumed in the New York cases that only in cases where the insane person has derived a benefit from the contract will he be denied the right to rescind.¹⁸

It seems, therefore, that in cases where the contract of an incompetent is executed and the consideration cannot be restored to the other party, the good faith of the sane person is material. The further question arises as to who must sustain the burden of proving this good faith. Again it is established in the case of *Imperial Loan Company v. Stone*, that one who "seeks to avoid a contract on the ground of his insanity must plead and prove not merely his incapacity but also the other party's knowledge of that fact, and unless he proves these two things he cannot succeed." If there is any doubt as to the variance of New York cases with the English case on other points, it seems to be established that the New York law is certain on this point. In the case of *Merritt v. Merritt*, the case of *Imperial Loan Company v. Stone* is cited and disapproved on this point.¹⁹ The Court says: "It is quite enough to put upon the lunatic's representatives the burden of proving lunacy. That burden is by no means light; . . . the party claiming under the instrument may well be called upon to show his good faith and ignorance of the insanity". This, like the other limitations placed upon what may be termed the English rule, seems reasonable, and manifests the tendency of the New York Courts to pursue a middle course, as they have in the law of infants' contracts. The result is that a certain protection is afforded to those who are unable to meet their fellow men on an equal footing by reason of their mental incapacity, and at the same time innocent persons who have acted in good faith are not unnecessarily injured.

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¹⁸Riggs v. American Tract Society, 84 N. Y. 330.

¹⁹43 App. Div. 68.