

7. If the testator purchased the lot within a month of his death, yet this was not a conveyance in trust for charitable uses within the statute.

The statement of the bill as to this is peculiarly evasive.

It is thus :—

“That within one calendar month prior to his decease, the said Dr. James Rush purchased a lot of ground, situate on the south-east corner of Broad and Christian streets, in the city of Philadelphia, which said lot was purchased by him, and was subsequently conveyed for a charitable use, as set forth in the trusts and conditions contained in the aforesaid writings, alleged to be his last will and codicils.”

It is not stated how the lot was so purchased and conveyed—whether it was conveyed *by* him, or conveyed *to* him—*when* it was conveyed for a charitable use, or by whom, or in what manner. Yet all this evasiveness, ambiguity, want of certainty and double intendment is claimed by the plaintiff to be cured by demurrer.

But the law always has been that, on special demurrer, these defects are fatal. A principal rule in Stephen on Pleading is rule 11 of section V. (page 378) :—

“Pleadings must not be ambiguous or doubtful in meaning; and when two different meanings present themselves, that construction shall be adopted which is most unfavorable to the party pleading.”

And the authorities cited in support of this are headed by the third of Bacon's maxims :—

“You shall find that in all imperfections of pleadings, whether it be in ambiguity of words and double intendments, or want of certainty and averments, or impropriety of words, or repugnance and absurdity of words; ever the plea shall be strictly and strongly taken against him that pleads.”

And this is followed by a cloud of authorities.

