

damages given upon affirmance by the Court of Appeals. And if the above opinion, in respect to the interest to which the plaintiff was entitled, be correct, it follows, that the Court below was right in refusing to give the second instruction asked for by the defendants' counsel.

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Judgment affirmed, with costs.

[PRACTICE.]

HUGH, *Plaintiff in Error*,

v.

HIGGS and Wife, *Defendants in Error*.

No action at law will lie on the decretal order of a Court of Equity.

ERROR to the Circuit Court for the District of Columbia.

This cause was argued by Mr. *Key*, for the plaintiff in error,^a and by Mr. *Jones*, for the defendants in error. March 6th.

Mr. Chief Justice MARSHALL delivered the opinion of the Court. This is an action on the case, brought to recover the money which the plaintiff in error had been decreed by a Court of Chancery to pay to the defendants in error. The defendant in the Court below contended, that an March 14th.

^a He cited *Carpenter v. Thornton*, 3 *Barnw. & Ald.* 52.

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action at common law did not lie on a decree in Chancery, and excepted to the opinion of that Court, overruling this objection. It is admitted by the opposite counsel, that, in general, the action does not lie to recover money claimed under the decree of a Court of equity, but he supposed that, in this case, the money had been received by the defendant below, upon transactions which took place after the decree. Upon examining the record, we perceive that the money was in his hands, as trustee, at the time the order to pay it over was made.

An objection was also made to an opinion of the Circuit Court, upon another part of the case. There was an agreement between the parties, under seal, and having some relation to the money to which part of the claim relates, and the defendant below objected to the form of the action on that account. But we cannot discover, from the bill of exceptions, whether the money in contest was, or was not, received under that instrument. On that point, therefore, the Court gives no opinion. The judgment is to be reversed for error in the opinion of the Court below, which declares the action to be sustainable on the decretal order of the Court of Chancery, and the cause is remanded to the Circuit Court for further proceedings.

Judgment reversed.