

## RUSH v. SMITH.

5-3611

394 S. W. 2d 613

Supplemental opinion on denial of rehearing delivered  
November 1, 1965.

APPEAL & ERROR—PETITION FOR REHEARING—REVIEW.—Appellees' point that the transfer of stock should be set aside only with respect to appellant's one-third interest could not be finally determined by Supreme Court but upon remand may be fully explored when necessary parties are brought into the case. [Ark. Stat. Ann. § 62-416 (1947).]

GEORGE ROSE SMITH, J., on rehearing. In a petition for rehearing the appellees make the point that even if our decision is correct the transfer of stock should be set aside only with respect to the appellant's one-third interest. The case of *Bell v. Wilson*, 52 Ark. 171, 12 S. W. 328, 5 L. R. A. 370 (1889), is cited for the proposition that a fraudulent conveyance is nevertheless good not only between the parties but also against all the world except the defrauded creditors.

A statute adopted after the decision in the *Bell* case has been interpreted to reflect a legislative intention to assist the heirs of a fraudulent grantor. Ark. Stat. Ann. § 62-416 (1947), carried forward into the Probate Code, Ark. Stat. Ann. § 62-2402 (Supp. 1965); *Ives v. Ives*, 177 Ark. 1060, 9 S. W. 2d 1062 (1928); *Moore v. Waldstein*, 74 Ark. 273, 85 S. W. 416 (1905). Paul Rush's heirs, however, are not parties to the present proceeding; so we are not in a position to render a final ruling upon the question now raised by the appellees. This is a matter that may be fully explored in further proceedings upon the remand of the case to the trial court, when, too, any other necessary parties may be brought into the case.

Rehearing denied.

Original opinion P. 706.