

TITLE III.
RIGHT OF THE CREDITOR TO
CANCELLATION OF THE ACTS MADE IN
FRAUD OF HIS OWN RIGHTS.

343. — A judgment creditor is entitled to claim cancellation by the Court of transfers or renunciations which a debtor may have made to the prejudice of such creditor provided that:

- 1) Such transfers or renunciations were made after the original obligation arose, and
- 2) The debtor knew that such transfers or renunciations would prejudice the judgment creditor, and
- 3) The person in whose favour such transfers or renunciations were made knew that such transfers or renunciations would prejudice the judgment creditor.

ILLUSTRATION. — I. — In 2451 A lends money to B, to be repaid at the end of the year 2453. B does not repay the money. In the year 2455 A obtains a judgment and a writ of execution against B. On having the writ executed A finds out that the present property of B is insufficient to satisfy him and that in the year 2454 B made a gift of a valuable piece of land to his son C. If A can prove that B and C knew that the gift would prejudice A, A is entitled to claim cancellation of the gift by the Court.

II. — If the gift was made in the year 2452, A would not be entitled to have it cancelled, because the obligation of repayment arose only at the end of the year 2453, that is to say after the gift.

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