

a loss occasioned to the trust estate by reason of an improper investment of the trust funds in which the plaintiff had concurred. The share of the plaintiff in the trust estate was more than sufficient to make good the loss, but the plaintiff contended that the defendant was liable to contribute equally with himself to make good the loss. The Court of Appeal (Lindley, Kay and Smith, L.JJ.) affirmed the judgment of North, J., that the plaintiff was not under the circumstances entitled to any contribution from the defendant; and holding that where a breach of trust is committed at the instance of a cestui que trust, the share of the cestui que trust is liable to be impounded to indemnify the trustee against the loss occasioned by such breach of trust; and that the fact that the plaintiff occupied the double position of both trustee and cestui que trust did not in any way lessen his liability to indemnify his co-trustee to the extent of his beneficial interest. Part of the moneys improperly advanced by the trustees to the plaintiff had been applied by him in payment of a debt due by him to his co-trustee the defendant, and it was contended that inasmuch as the defendant had in this way indirectly derived a benefit by the breach of trust, he was at least bound to make good one half of the amount so applied, but the Court refused to accede to that contention.

MORTGAGE—PURCHASE OF EQUITY OF REDEMPTION—PAYMENT OF PRIOR MORTGAGE BY PURCHASER OF EQUITY OF REDEMPTION—MERGER.

*Liquidation Estates Purchase Co. v. Willoughby*, (1896) 1 Ch. 726, is a decision of the Court of Appeal in which there was a difference of opinion. The question was whether a charge paid off by a purchaser of the equity of redemption was kept alive for the benefit of the purchaser, or was to be deemed to have been discharged. Lindley and Smith, L.JJ., decided in favor of the view that the charge had not been kept alive, and Kay, L.J., that it had. The facts of the case as stated in the report are somewhat complicated—but the result of them seems to be as follows. Walker having contracted to purchase a business, agreed with Willoughby, Paulet and Kennedy, to borrow from them £10,000, £9,000 and £6,000 respectively,