

the purchaser to deduct the amount of the tax from the purchase money.

All that was liable to the lien, and all that was advertised for sale and purchased by the respondents, was the estate, right, title, and interest of Tremblay and Ballard under the lease in the lands, and all that the purchasers were therefore entitled to was that estate, right, title, and interest; and they took therefore subject to the tax.

Where a sale takes place in Court, the Court, as my brother Anglin said, "will not allow a purchaser from it to be put in any unfair position."

No doubt, in the case of a sale in Court, where a purchaser is entitled to have a good title to the land itself shewn, and that free from incumbrances, his completion of the purchase in ignorance of an incumbrance which he would have been entitled to have paid out of the purchase money would not disentitle him on discovery of the mistake to have it rectified.

*Turrill v. Turrill*, 7 P. R. 142, was a case of that kind, and in that case Vice-Chancellor Blake rested his judgment upon the ground that, "as the Court in the terms of sale represented the premises as being sold and not a mere interest in them, the Court, as it had the means of doing so by the money being in Court, should see that such a title as that which was represented by the advertisement be given to the purchaser."

That is a very different thing from giving such relief to a purchaser who is not entitled to have an incumbrance paid out of his purchase money, but, under the terms of his contract, takes what is sold with the burden of the incumbrance upon it, which is doing what practically amounts to making a new and better bargain for him.

The utmost relief to which, in our opinion, the respondents were entitled was to have their contract wholly rescinded: *Daniel's Chancery Practice*, 7th ed., pp. 887-8.

Mr. Middleton, for the respondents, intimated that if we should be of opinion that that was the full extent of the relief to which the respondents were entitled, they would elect to rescind their contract, and to their doing so no serious objection was urged by the appellants' counsel.

The order appealed from must, therefore, be discharged, and there be substituted for it an order rescinding the contract of sale and for payment out of Court to the respond-