

trine is that a person who takes with notice of a covenant is bound by it"—the court held that the said equitable doctrine, established as it is by *Tulk v. Moxhay*, 2 Ph. 774, applies only to restrictive covenants, i.e., covenants respecting the mode of using the land, as indeed had already been held in *Haywood v. Brunswick Society*, 8 Q.B.D. 403, and *London and South Western R.W. Co. v. Gomm*, 20 Ch. D. 562.

As to the lien. Evidence was admitted by the Chancellor at the trial as to the circumstances surrounding the making of the deed, and I think rightly: *Frail v. Ellis*, 16 Beav. 350. It is a very old head of equity that if the purchase money or any part of it is unpaid, and the vendor gives possession, he will have a lien on the estate for the unpaid purchase money. This principle, which is said to be "a natural equity," was laid down by the Court of Chancery at least as early as 1684, when the Lord Keeper, Sir Francis North, Lord Guildford, expressly so decided in *Chapman v. Tanner*, 1 Vern. 267. This "lien is not in general discharged by the vendor taking security for the purchase money by bond, bill, or note, unless under circumstances clearly shewing that it was his intention to rely not upon the security of the estate, but solely upon the personal credit of the purchaser": *Watson's Compendium of Equity* (2 ed.), p. 1172. The rules for determining this question may be deduced from two well-known cases, *Parrott v. Sweetland*, 2 My. & K. 655, and *Frail v. Ellis*, 16 Beav. 350. In the former case Lord Commissioner Shadwell, in delivering the judgment of the court (himself, the Vice-Chancellor, and Mr. Justice Bosanquet) says (in speaking of the question whether a lien is excluded), p. 664: "It is manifest that in Lord Lyndhurst's opinion the proper way of dealing with questions of this kind is to look at the instruments executed by the parties at the time, and upon them to declare what the meaning of the parties must have been." In the latter Sir John Romilly, M.R., says: "I am of opinion that the form of the deed does not conclude the parties. . . . I am of opinion that in accordance with all the cases it is possible for the parties to shew what the real nature of the contract was." Accordingly the Master of the Rolls in that case allowed evidence which convinced him that the vendor executed the conveyance of the property in the faith and assurance that a mortgage deed to secure the balance money had been executed. This, he held, completely destroyed the effect of the deed executed at the time, which expressed that the consideration was £150 then paid, and the acceptance of the purchaser of £300 at 3 months,