

with whom he has contracted, but to strangers unknown to him, who may thereafter contract with his vendor. Here the plaintiff contends that his caveat was at once a warning to the purchaser as a stranger and a notice to him of the assignment of the debt. The attempt is made to make the caveat perform a double function (1) that of a warning to strangers to the transaction, to all persons whatsoever being unknown to the caveator who might try to acquire interest in the land, (2) that of a notice to a party to the transaction, *i.e.*, the debtor, well known to the caveator, of the assignment of the debt. It did perform the first function no doubt, but I cannot see that it performed the second or that it was ever intended to do so by the Land Titles Act. A warning to strangers not to *acquire* any interest except subject to the rights of the caveator is a very different thing from a notice to one whose interest and rights have already been acquired and created, known to the caveator and the subject of his own contract, that he must now exercise these rights in a different way. I think a purchaser of land has a right, as against everyone who knows of his contract, to go on exercising the rights given by the contract by paying the money to the person to whom he has agreed to pay it until some actual notice to the contrary is given to him.

BECK, J.:—There is really no dispute about the facts. I state them briefly.

John and Arthur Steinbrecker made on June 27, 1912, an agreement to sell certain land to W. A. Kuebler and Carl Brunner. The price was \$21,600, payable \$4,600 down and the balance in 6 payments of \$2,834 or \$2,833 on September 27, 1913 to 1918.

The land at the date of the agreement was subject to two mortgages for \$2,000 and \$500 held by one Thompson. By instrument dated April 5, 1913, the Steinbreckers assigned the moneys then owing by the purchasers to the plaintiff, stated therein to be \$17,000 with interest at 6% per annum from June 27, 1912, and by the said instrument purported to grant and transfer to the plaintiff all their interest in the land, but expressly, "subject to the terms, covenants and conditions contained in the said articles of agreement." Concurrently therewith the Steinbreckers executed a transfer of the land to the plaintiff.

The land at that time being subject to mortgage the duplicate

ALTA.
S. C.
GRACE
v.
KUEBLER.
Stuart, J.

Beck, J.