

one variety it will help us to realize that the purchaser's interest and enforceable in equity against the land, of which the use is conferred in equity a property in the land itself. Whether the vendor is an implied trustee, a constructive trustee, a bare or naked or mere trustee is not of much importance. These terms were probably unknown when the trust was first given recognition in Chancery and the important thing is that the vendor stands "trusted" for the purchaser and thereby the purchaser has an equitable interest in the land. In fact, the vendor's position is hardly that of an implied trustee. He has agreed to convey to the purchaser and his duty is express and not implicit. He is really an express trustee.

Conceding, therefore, that the purchaser acquires an equitable interest in the lands on making a binding contract one naturally asks what happens to this interest if the contract is not carried out.

If the purchaser breaks his contract the effect upon his estate is necessarily different from cases where the vendor is the defaulter. The latter is the simpler problem. The purchaser may forego his equitable interest in the lands and sue for damages, or he may claim his equitable interest and sue for specific performance. If the vendor has not only refused to convey to the purchaser but has conveyed to someone else who is protected by the Registry Act or by the doctrines of equity in favour of innocent purchasers who acquire the legal estate then the equitable interest is gone and damages are the only remedy. Where, however, the purchaser is a defaulter the problem is not so simple and many questions arise. The following are suggested:—

1. The purchaser being in default asks an extension of time. Can he get it?
2. The purchaser having paid a deposit makes default. Can the vendor cancel the sale and keep the deposit?
3. The purchaser having paid certain instalments of purchase money makes default. Can the vendor cancel the sale and keep the instalments?

These questions are to some extent merely a statement in