

*Lyon* (1869), L.R., 4 Chy.App., 218; *Parker v. Nightingale* (1863), 6 Allen (Mass.), 341; *Peck v. Conway* (1876), 119 Mass., 546; *Sharp v. Ropes* (1872), 110 Id. 381; *Clark v. Martin* (1865), 49 Pa., 289; *Tod-Heatly v. Benham* (1888), L.R., 16 Chy.D., 80. In *Nottingham Patent Brick and Tile Company v. Butler* (1886), 16 Q.B.D., 778, Lindley, L.J., stated the law to be as decided in *Harrison v. Good* (1871), L.R., 11 Eq., 338, "that it is an inference of fact in each case, whether the purchasers are bound *inter se* by such covenants, and that the mere fact that the vendor does not bind himself expressly to enforce the covenants which he takes for the benefit of the purchasers, is not material." It is the community of interest in the beneficial restriction which necessarily requires and imports reciprocity of obligation. This in *Renals v. Cowlishaw* (1878), L.R., 9 Chy.D., 125, the former owners in fee of a residential estate and adjoining lands, sold part of the adjoining lands to the defendant's predecessors in title, who entered into a covenant to build upon the land thereby conveyed, within a certain distance from a particular road; that the garden walls or palisades to be set up along the sides of the said road should stand back a certain distance from the centre of the road; that any house to be built upon the land adjoining the road, should be of a certain value, and of an elevation at least equal to that of the houses on a particular road; and that no trade or business should be carried on in any of such houses or buildings, but that the same should be used as private dwelling houses only. The conveyance did not state that this covenant was for the protection of the residential property, or in reference to the adjoining pieces of land, or make any statement or reference thereto. Other pieces of the adjoining lands were subsequently sold, and the conveyance to the purchaser in each case contained restrictive covenants similar to that above mentioned. The same vendors afterwards sold the residential estate to the plaintiff's predecessors in title. The conveyances contained no reference to the restrictive covenants, nor was there any contract or representation that the purchasers of the residential estate were to have the benefit of them; there was, moreover, in the conveyance to the plaintiffs, a covenant not to build a public house or carry on offensive trades upon a particular portion of the property conveyed, thus limiting their use of the purchased property, but not co-extensively with those covenants first given. Vice-Chancellor Hall dismissed a bill to restrain the defendants from building in contravention of the first mentioned covenants. In his judgment he said:

"From the cases . . . it may, I think, be considered as determined, that any one who has acquired land, being one of several lots laid out for sale as building plots, where the court is satisfied that it was the intention that each one of the several purchasers should be bound by, and should, as against the others, have the benefit of the covenants entered into by each of the purchasers, is entitled to the benefit of the covenant; and that the right, that is, the benefit of the covenant, enures to the assign of the first purchaser, in other words, runs with the land of such purchaser. This right exists not only where the several parties execute a mutual deed of covenant, but where a mutual contract can be sufficiently established. A purchaser may also be entitled to the benefit of a restrictive covenant entered into with his vendor by another or others where his vendor has contracted with him that he shall be the assign of it, that is, have the benefit of the covenant. And such covenant need not be express, but may be collected from the transaction of sale and purchase. In considering this, the expressed or otherwise apparent purpose or object of