

of an under-lessee for breach of covenant by the under-lessor to perform the covenants to repair contained in the head-lease which included other property besides that comprised in the under-lease. The defendant was the assignee of the under-lessor and was entitled to the premises mentioned in the head-lease for the unexpired term subject to the under-lease. The under-lessor having made default in performance of the covenant to repair in the head-lease, the superior landlord had entered and ejected the plaintiff. The Court of Appeal agreed with Jelf, J., that the action was not maintainable, because the covenant to perform the covenants in the head-lease related to premises not demised by the sub-lease, and not being a covenant to be performed on the demised premises, it was merely a collateral covenant which did not bind an assignee of the covenantor though named therein.

ADMINISTRATOR AD COLLIGENDA BONA—LEASE—ENTRY OF ADMINISTRATOR ON LEASEHOLDS—RENT—LIABILITY OF ADMINISTRATOR FOR RENT—USE AND OCCUPATION BY ADMINISTRATOR

*Whitehead v. Palmer* (1908) 1 K.B. 151 is a case which illustrates the necessity for caution on the part of an administrator in dealing with the leasehold estate of the deceased, if he wishes to protect himself from personal liability for rent. In this case the defendant was appointed administrator ad colligenda bona of a deceased person, but with power to sell the leasehold premises of the estate, the rent of which was £450 a year. On the 7th June he took possession of the premises and endeavoured to sell or sub-let them, but failed. On 24th June a quarter's rent became due. On 23rd August, the rent not having been paid, the lessor commenced an action for recovery of possession and for rent, and mesne profits. Summary judgment for possession was given, and on 18th October defendant went out of possession. The action proceeded to trial before Channell, J., on the claim for rent and mesne profits, and he held that the defendant was personally liable for a proportionate part of the rent from the 7th June until 23rd August and thereafter until he gave up possession for mesne profits at the same rate as the rent reserved by the lease, which appeared to be the fair value of the premises and this, although all the defendant had realized from the premises was £26 5s. 0d. Channell, J., points out that although the rule used formerly to be that an administrator ad colligenda could only collect, and had