

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

that the obligations of a contract can, without the consent of the other contracting party, be assigned except in certain exceptional cases of which this is not one. See. vol. 7 Hals., pp. 495 and 504.

A debtor is not bound by the assignment of a debt until he has been given notice of the assignment. The plaintiff here never gave the defendants notice of the assignment of the debt. But he registered a caveat and it was contended that by virtue of the Land Titles Act this amounted to notice.

I am for myself unable to accept that contention. I do not think the Land Titles Act was ever intended to furnish to the assignee of a debt, even though that debt might be due as the purchase price of land, a new way of giving notice of the assignment to the debtor. The plaintiff's interest was primarily in the debt, not in the land. The vendor has, in my opinion, no right to convey the legal estate in the land to him. That would be a breach of his contract with the purchaser. No doubt, by the assignment, the vendor did grant and transfer to the plaintiff all his interest in the land. But that interest was the right to hold the title until he was paid. In as much, however, as the vendor had no right to transfer the title to the plaintiff it is difficult to see what right in the land was really transferred to the plaintiff. Was it the vendor's lien for unpaid purchase money? Perhaps it was, though I find some difficulty in understanding why we should speak of a vendor's lien on land of which he still holds himself the legal estate. The vendor's lien is in such a case nothing other than the right to keep the title in his own name until he is paid and perhaps to exercise with or without the sanction of the Court a right of re-sale.

But granting, as no doubt in some form or other is the case, that the plaintiff had an interest in the land which would support a caveat, I think his caveat protected him merely against other parties who might thereafter acquire an interest from the vendor, his assignor, or from the purchaser. It did not protect him from the exercise by the purchaser of rights which he knew the purchaser had, rights, indeed, which were the very subject of his own contract with the vendor. A caveat under the Land Titles Act is in my view intended as a warning to *strangers*, not to persons with whom the caveator already has privity of contract. The ordinary purchaser's caveat is a warning, not to his vendor