

against the defendant, claiming a return of the deposit, in which the defendant counterclaimed for specific performance. In January, 1903, an order was made by consent in the action of *Green v. Fowler* whereby the contract was rescinded and Green, on payment of £110, delivered up possession of the premises to Fowler. After completing his security as receiver the plaintiff brought the present action, claiming a lien on the property for the amount of his judgment. Farwell, J., dismissed the action, holding that under the circumstances the defendant was not a trustee of the land comprised in the contract for Green, and that Green's interest under the contract was not such an interest in land as could be charged by the receivership order, and inasmuch as the plaintiff had not perfected his security until after the compromise, he had no claim against the vendor in respect of the £110.

PUBLIC HEALTH—NUISANCE—SMALLPOX HOSPITAL—QUIA TIMET ACTION—EVIDENCE—INJUNCTION.

Attorney-General v. Nottingham (1904) 1 Ch. 673. This was a quia timet action to prevent the defendant corporation from using a building lately erected by them, as a smallpox hospital, on the ground that so to do would be a public and a private nuisance. The evidence of experts was conflicting as to the possibility of aerial dissemination of the disease for any considerable distance, say for more than 50 feet, and the hospital was distant 51 feet from the nearest highway and there were no residents within a quarter mile radius, and it was not contended that there was any consensus of opinion on the point, and Farwell, J., came, therefore, to the conclusion that no case had been made by the plaintiff on that ground, and there was no evidence that the hospital was not properly conducted, and he, therefore, held that it was not a nuisance either public or private and refused the injunction. In disposing of the case he had to consider the question of the admissibility of evidence of what had occurred in the neighbourhood of other smallpox hospitals carried on under similar conditions, and came to the conclusion that it was receivable on the authority of *Hill v. Metropolitan Asylum* (1879) 42 L.T. 212; (1882) 47 L.T. 29. At the same time he expresses a doubt whether the admission of such evidence is not wrong in principle and calculated to confuse and embarrass the case by raising a number of collateral inquiries on which it is impossible for the Court to pronounce.