

1853. absolute conveyance of all *Jones's* interest in the property assigned—*Le Targe v. De Tuyll* (b), *Howland v. Stewart* (c), *Greenshields v. Barnhart* (d), *Tull v. Owen* (e). Here nothing that is shown to have taken place between *Matthews* and *Jones* was sufficient to evidence the existence of an equity of redemption outstanding—*Lord v. Kellett* (f), *Wiggins v. Peppin* (g), *Egg v. Barnett* (h), *Cooper v. Turner* (i), *Sellen v. Norman* (j), *Lucas v. Novosilieski* (k), *Colsell v. Budd* (l), *Dickin v. Ward* (m), *Bealey v. Shaw* (n). Independently of every other consideration, the delay which has occurred in filing the bill offers a sufficient defence to the suit—*Smith v. Clay* (o), *Haworth v. Bostock* (p), *Sibbering v. Earl of Balcarras* (q); and the death of one of the parties to the original transaction gives additional weight to the objection on the ground of delay.—*Jackson v. Jackson* (r).

Argument. As to any presumption that might be said to arise, he referred to *Best* on Presumptions, page 42; *Taylor* on Evidence, secs. 97 and 116, and the cases there cited. There is a material variance between the pleadings and proofs—*Mundy v. Joliffe* (s), *Gresley* on Evidence, 171. The first transaction was at most rather a sale with a conditional right to re-purchase than a mortgage, and in such cases time is extremely material—*Williams v. Owen* (t), *Joy v. Birch* (u), *Davis v. Thomas* (v). After the proof in bankruptcy, there can be no suit in equity—*Clark v. Capron* (w). Dismissal of the bill without prejudice to filing a new one never takes place in a case of this kind—*Stevens v. Guppy* (x), *Lindsay v. Lynch* (y), *Woollam v.*

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| (b) Ante vol. 1, p. 227. | (c) Ante vol. 2, p. 61. | (d) Ante vol. 3, p. 1. |
| (e) 4 Y. & C. 202. | (f) 2 M. & K. 2. | (g) 2 Bear 404. |
| (h) 3 Esp. 197. | (i) 2 Sta. 498. | (j) 4 C. & P. 82. |
| (k) 1 Esp. 296. | (l) 1 Camp. 29. | (m) 15 Jur. 834. |
| (n) 6 East. 208. | (o) 3 B.C.C. 689. | (p) 4 Y. & C. 16. |
| (q) 3 DeG. v. S. 735. | (r) 9 Ves. 604. | (s) 9 Sim. 413. |
| (t) 12 L. J. N. S. ch. 207. | (u) 4 C. & F. 89. | (v) 3 R. 185. |
| (w) 1 R. & M. 506. | (x) 2 V. Jr. 668. | |
| (y) 2 Sch. & L. 1. | | |

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