

business, sport, or employment, or anything which should annoy or attend or operate to the annoyance of McCarthy, his heirs and assigns; and she further covenanted, for herself, her heirs, etc., not to erect or build during the term of 33 years any building other than a dwelling-house upon the northerly 75 feet of the land conveyed to her, and not to erect more than 3 dwelling houses thereon, and that any dwelling-houses erected should front or face on Beverley street; and she further covenanted, for herself and her heirs, etc., that during the period of 33 years any building or buildings to be erected should not be used for any purpose other than that of a dwelling-house or houses, and that no business should be carried on upon the premises.

Subsequently Mrs. Cayley conveyed to J. H. Kane, subject to the provisions and covenants in the deed to her, a portion of the lands having a frontage on Beverley street of 90 feet by a depth of 160 feet, and Kane covenanted to observe the said covenants, and by deed of 15th January, 1887, she conveyed the remainder to Kane.

Subsequently Kane conveyed to Catherine Walsh the westerly 40 feet fronting on Baldwin street, and Catherine Walsh conveyed to Frank J. Walsh the easterly 20 feet thereof, on which he erected a dwelling-house, in which he was residing at the time this action was brought.

By various mesne conveyances, David Lavine, the defendant, subsequently became the owner of that portion of the lands having a frontage on Beverley street of 90 feet by a depth of 120 feet.

When Frank J. Walsh purchased the easterly 20 feet of the west 40 feet, the whole of the 90 feet by 160 feet was vacant land, and when the defendant purchased the 90 feet by 120 feet, that was vacant land, but since then the defendant had erected 3 dwelling-houses fronting on Beverley street, which the plaintiffs well knew before accepting the offer hereinafter set out.

J. H. Kane, when he sold the westerly 40 feet to Catherine Walsh, entered into no covenant with her that he would observe the provisions and covenants contained in the first mentioned deed; and any person examining the title to any portion of the westerly 40 feet would have notice of that deed and the covenants contained therein.

By various mesne conveyances the plaintiffs became the owners in fee simple of the 117 feet by 160 feet upon which