

acquired their conveyance, subject to the qualified right of the defendants, after the three years, to sell to a stranger.

The question is, what did the parties mean when by the agreement they said that the "lease shall contain a covenant and proviso on the part of the lessors that the lessee may at any time during the said term exercise his right of pre-emption," etc.? It does not say during five years, but during the said term—that is, whilst the said term is still subsisting.

If the plaintiff's contention is adopted, then at any moment during the five years, although the lease had ceased to exist, the plaintiff, on exercising his option, would be entitled to a conveyance of the lands in fee, and, with it, immediate possession.

In the meantime what use could the defendants make of the property? They or their tenants could hold it only on sufferance, being liable to be ejected at a moment's notice. It is inconceivable that the parties contemplated a tenure so precarious and destructive of the value of the use of the property. Practically it would mean that during the continuance of the option the defendants should not be in a position to make any reasonable use of the property, that is, the plaintiff might abandon its user as lessee, and yet the owners could not, either by themselves or others, make a reasonable use of it. In the meantime the defendants would be obliged to pay the taxes, insurance, and upkeep, with no income to meet these charges, and with no right under the contract to add interest to the purchase-money. This result is wholly inconsistent with the scheme of the parties. Practically, though not as a matter of law, the right of redemption was intended to give to the plaintiff the benefit of redemption, the purchase-price being the amount of the defendants' judgment, the prior mortgage, and the disbursements which the defendants might properly incur for taxes, insurance, and upkeep—the rental payable by the plaintiff taking the place of interest on the defendants' claim until the plaintiff purchased.

If, notwithstanding these consequences, the parties contracted to the effect contended for by the plaintiff, then we have nothing to do with consequences; but, when an ambiguous set of words is used, the circumstances assist in making clear the sense in which both parties so expressed themselves.

Then the proviso that "after the first three years the lessor may sell the premises free from the said lease," etc., shews that they contemplated the lease as subsisting.

Then further on it is provided that "the lessee shall have the option of becoming the purchaser at the price," etc.—not that the plaintiff shall have the option, but the "lessee."