The trial Judge held that the effect of this agreement was, at all events when considered in the light of the way in which it was carried out and the business of the restaurant was afterwards carried on, to permit Mrs. Brooker to have an interest in or use of the property within the meaning of the covenant and as substantially a sub-letting of the property. With that conclusion I agree, and I also agree with the reasons given for it, to which may be added another and I think a very cogent reason—the fact that although the agreement recites that the $1,500 are to be paid out of the profits of the business, $700 were paid in cash on the execution of the agreement, and Mrs. Brooker covenanted to pay the remaining $800 on the 1st of April, 1912, not out of the profits of the business, but absolutely.

That conclusion having been reached, the respondent's right to recover possession seems to me beyond question, and the matters relied on by the appellants' counsel as obstacles to his obtaining relief have no bearing on the question which is to be determined.

Assuming that the agreement of 1st October, 1911, was not a mere license to use the premises but constituted a demise of them to the appellants, which is probably its legal effect, the answer to the argument of the appellants' counsel is that *ex vi termini* the lease to the appellants came to an end when in breach of its provisions they permitted Mrs. Brooker to have an interest in the premises and to use them.

Although the demise to the appellants is in the earlier part of the lease for ten years from 1st May, 1909, the later provision is that her right to occupy and carry on the restaurant "shall continue only so long as the licensees shall strictly observe, comply with and perform the undertakings, provisions, agreements and stipulations agreed and entered into by them in this agreement" . . . and in my opinion upon breach of these undertakings, etc., as I have said the term *ex vi termini* came to an end.

If authority for this proposition be needed; *Doe dem: Lockwood* v. *Clarke* (1807), 8 East 185, 9 R. R. 402, may be referred to.

In that case the habendum was for 21 years, if the tenant, his executors, etc., should so long continue to inhabit and dwell with his and their family, etc., in the farm-house, and he, his executors, etc., should so long continue actually to hold and occupy the said farm, lands, and premises, and not