

that was a question which was not considered by the learned County Court Judge: perhaps the point was not plainly made before him; and assuredly such cases as *Beam v. Beatty* (1902), 4 O.L.R. 554, could not have been brought to his attention.

Such cases compel the Court, as a matter of law, to consider that contracts "such as the Courts can pronounce to be to their prejudice" are void when made by infants; that their obligation, "with a penalty, even for necessities, is absolutely void." So that the real question was, first, whether the contracts in question were void or only voidable: to be followed, if void, by the second and concluding question, whether anything had taken place which prevented the plaintiff from recovering the money paid by him under such void contracts.

The plaintiff was but a lad of 18 years when the defendants induced him to buy the land in question and to sign a contract for the purchase of it and payment of the purchase-money (all during minority), with a forfeiture clause, under which, though he might have paid all but the last mite, he might lose the land and all that he had paid upon it.

The defendants must have known the lad was legally incompetent to contract; that he could not resell, however rapid might be the decline or the rise in value of his purchase; that his hands were tied by his infancy so that he could not borrow to pay the purchase-money or otherwise save his purchase, if even at the last moment he had not the means to pay, no matter how much had been paid before; they knew his position in life, and that, if sickness or anything else prevented him from earning enough to make the payments, they were binding him to permit them to retake the land and retain all the payments he had made upon it. In these circumstances, it was not possible for any one to contend that the contracts were not prejudicial to the infant.

And, being void, the plaintiff might recover the money paid under the contracts, unless he had received valuable consideration for them; or unless it has been shewn that, after the plaintiff attained his majority, a new contract, binding in law or equity, was made by him, and the paid money applied upon it; but no consideration was received, and complete substantial restitution could be made: and there was no contention that any such new contract was made.

The appeal should be allowed and judgment should be entered for the plaintiff with damages in the amount paid by the plaintiff to the defendants under the contract, and with costs of the action and of the appeal.