

storey above the ground floor. The other half of this means of access was upon the land of the adjoining owner to the east, and the whole was owned and used in common by this owner and his tenants, and the plaintiff and his tenants, and is the only means by which access can be had by the plaintiff and his tenants to the upper storeys of his building.

In other words, there exists over the one-half which is built on the plaintiff's lands an easement or right of way for the purposes of the building to the east and its occupants, and the plaintiff is entitled to a similar easement or right of way for the purposes of his building and its occupants over that part of this means of access which is built on the land of the adjoining owner.

The description of the interest of the plaintiff as a leasehold interest imports, I think, that his interest is that of lessee under a lease granted by the freeholder, and it seems to be settled that under an agreement to sell such an interest the purchaser is not bound to accept an interest under a sublease: *Madeley v. Booth*, 2 DeG. & Sm. 718; *In re Beyfus and Masters Contract*, 39 Ch. D. 110; *Broom v. Phillips*, 74 L. T. N. S. 459; *Dart on Vendors and Purchasers*, 7th ed., p. 1086; though in *Camberwell and South London Building Society v. Holloway*, 13 Ch. D. 754, the Master of the Rolls seemed to think otherwise, and in *Waring v. Scotland*, 57 L. J. Ch. 1018, North, J., seems to have decided otherwise.

I am, however, of opinion that the defendant is not entitled now to raise this objection. By the terms of the agreement he, as has been seen, was required to make his objections to the title within 10 days, and he was to be deemed to have accepted the title if no written objection to it was made within that time. Not only was no objection made within the 10 days, but on 22nd June, 1907, the plaintiff's solicitors sent to the defendant's solicitors a draft of the assignment of the lease to the defendant, which was returned approved on 11th July following, and in this draft assignment it is shewn that the plaintiff held under a sublease from one John D. Irwin, and that Irwin held the land in question and other land under a lease from the owner of the freehold, Augusta Elizabeth Ross. In addition to this, the defendant's solicitors in their letter to the plaintiff's solicitors of 19th July, 1907, answering a contention of the latter that the time had long passed for objection to the title, and that they were therefore not entitled to ask for "a