could get the land discharged from the mortgage at any time, and as a matter of fact the mortgage was discharged before this action was brought, so that there was no reason why the transaction should not have been carried out. If the contract was binding upon the defendant an outstanding mortgage is no objection to title, nor did the plaintiff raise the objection as one of title, but desired that before the purchase money was paid the mortgage should be discharged.

It is also quite clear, I think, that the plaintiff, either by himself or his solicitor, did not relieve the defendant from completing the contract. The plaintiff, while admitting that the defendant could not convey to him the whole of the 95 feet, was willing to take what the defendant had to convey—that is lot 2.

The sole question, therefore, remains, is there a contract binding in law? There is no question that the parties understood perfectly what was intended to be sold. I do not think that the agreement of the 27th March is indefinite. It appears from the evidence of Mr. Gray, solicitor, that one Miles, who paid the deposit, wished to purchase the 45 feet, and that the plaintiff desired to purchase the 50 feet, being lot 2. The 45 feet was owned by Barker, and the deposit was paid upon both.

In the view I take of the matter, it is unnecessary to decide whether the agreement of the 27th March, 1912, is sufficiently definite or sufficiently signed to make a binding contract between the parties, because after this instrument was excuted, the matter was cleared up, the number of the lot was obtained, it was understood that the plaintiff should take the deed of lot 2, it was agreed by both defendants that such a deed should be given. This deed was prepared and executed by Taylor and his wife; and this deed, together with the agreement of the 27th March, the letter from Moffat to Dunmore and his reply, the cheque for the purchase and the receipt, together form a sufficient memorandum in writing to satisfy the Statute of Frauds.

The defendant Taylor was properly made a party, because having a knowledge of the agreement to sell, and having consented to make a conveyance direct to the plaintiff, and having that conveyance settled and approved by the plaintiff's solicitor and afterwards by himself, he had no right independent of the other defendant, to declare such an arrange-