

a hardship on the purchaser, who had protested on this very ground against being compelled to accept the dubious title.

It will of course be borne in mind that the position is not by any means the same as though the ownership or the title of the vendor were being attacked by a stranger.

The question under the present case is simply whether the title that the vendor has is such a one as the Court will force on an unwilling purchaser.

In regard to this position we might refer to the first of the rules laid down by the late Vice Chancellor Turner in the well known case of *Pyrke v. Waddingham*, 10 Hare 8 (approved by Lord Romilly in *Mullings v. Trinder*, L.R. 10 Eq. 449), as resulting from the authorities on the subject, viz.:—

"That the Court will not hold a title to be good, even though its now opinion may be favourable, when other competent persons might reasonably entertain a different opinion, or when the purchaser, if compelled to take the title, might be exposed to substantial and not merely idle litigation; and that in determining each case, it must not be lost sight of that the Court has no means of binding the question as against adverse claimants, or of indemnifying the purchaser, if its own opinion should turn out not to be well founded; and that in cases where the title may be affected by rights which may hereafter arise, it is the duty of the Court to act as if those rights had actually arisen and were in the course of active litigation."

We think it cannot but be admitted that serious uncertainties attach to the title of the vendor in the present case.

One can easily conceive circumstances under which the title of the vendor would be undoubtedly bad, for instance, suppose that, at the time the deed in question was made to T, another deed was also executed, declaring the trusts on which T. was to hold the property.

Suppose the property were to be held in trust for A, for life, and after his decease in trust for B in fee. Suppose A were to die within a year or two of the present time, and