

price that remains unpaid, notwithstanding that he had accepted the title, and that under the vendor's covenants for title he would have had no guarantee of indemnity against the ejector's rights: *Cripps v. Reade*, 6 T. R. 606 (as to which, see above, p. 1133); *Johnson v. Johnson*, 3 R. & P. 162; Sug. V. & P. 549. The reason of this is that the lawful ejectment of the vendor, or of the purchaser holding possession with the vendor's assent, before completion, makes it impossible for the vendor duly to fulfill the agreement by conveying the land with the right to possession. The vendor, therefore, is obliged to commit such a breach of the contract as entitles the purchaser to rescind it and to recover all sums paid on account of the price: see above, pp. 578, 609-611, 1037-1039, 1050-1052. If, however, the purchaser had agreed to buy such interest or title as the vendor had (see above, pp. 202, 646), he would be bound to perform the contract, and could not recover any purchase money paid or resist payment of the price, although the vendor, or he himself having been let into possession, were ejected by title paramount before the contract had been completed by conveyance: *Early v. Garrett*, 9 R. & C. 928; and see *Best v. Hammond*, 12 Ch. D. 1; above p. 204. As to the purchaser's duty in such a case to perform the contract specifically, see *Kenney v. Werham*, 6 Madd. 355; *Wilkinson v. Torkington*, 2 Y. & C. Ex. 726; Fry, Sp. Perf. §§ 914-921. 3rd ed."