

had any interest whatever in the purchase Bell was led to believe he was making from the Kenning syndicate.

Nor when, two days later, Coleridge upon handing Mr. Kenning Bell's cheque for \$11,750, demanded the difference between the \$8,000 payable and the amount of the cheque, did he pretend that anyone but himself was interested in the \$3,750. Mr. Kenning, misled by the agreement of sale from Coleridge to Bell, which he had drawn upon Coleridge's instructions, handed over the excess. There is not the slightest reason to doubt the absolute good faith of Mr. Kenning, and it was with the greatest satisfaction to me that as the facts connected with the transaction were revealed, all the charges spread upon the pleadings against him and his associates in the ownership of the property were unreservedly withdrawn by counsel for the plaintiff. As against such defendants the action was accordingly dismissed with costs, except in so far as it was necessary to retain them before the Court in order that they should be subject to its direction in regard to the agreement of the 6th May.

Coleridge did not divide the \$3,750 with his associates. By arrangement with them, he applied Smith's share and his own in payment of the \$2,500 on June 1st and retained Marcon's share, with Marcon's concurrence, to be applied on the instalment due August 1st.

About the time the second instalment became due, Bell, while in Mr. Kenning's office, accidentally saw the agreement of the 6th covering the sale to Coleridge, and learned for the first time that the person who acted for him in what he thought to be a purchase from Mr. Kenning at \$450 an acre was in fact himself the purchaser from Kenning at \$400 an acre, and had induced Mr. Kenning to give up \$3,750 out of Bell's cheque for \$11,750. Bell at once sought legal advice and failing to obtain redress brought the present action.

He seeks as against Coleridge an accounting by Coleridge for the moneys received, a declaration that the purchase by Coleridge was for his benefit, a forfeiture of Coleridge's interest because of the fraud, and a declaration that the \$2,500 paid in June was of the moneys of the plaintiff.

Coleridge by counterclaim seeks a declaration that the \$13,750 paid by Bell is forfeited and that he (Coleridge) is entitled to the lands in question free from any claim of the plaintiff in regard thereto.