

were peculiar. The plaintiffs were Hohler the vendor, Rollo and wife for whom the purchase was made, and the defendants were the executors of the deceased purchaser Mrs. Aston who was an aunt of the plaintiff Rollo. Hohler was in negotiation with the landlord of certain leasehold premises for the surrender of an existing term and for a renewal of the term for an extended period. Mrs. Aston, hearing of the transaction, agreed verbally with Hohler that she would buy the premises for her niece Mrs. Rollo and her husband who were then living in the country and who were informed by her of her intention. Mr. Hohler thereupon completed the purchase. Mr. and Mrs. Rollo gave up the lease of their premises in the country and entered into possession of the house and premises acquired by Hohler; but before the required deeds to give effect to the transaction were executed Mrs. Aston died, and her executors refused to be bound by the alleged agreement and set up the Statute of Frauds as a defence. Sargant, J., who tried the action, came to the conclusion that the contract was not only for sale by Hohler to Mrs. Aston (under which she would be the owner of the house) but was a contract for the purchase of it for the benefit of Mr. and Mrs. Rollo, and though the latter could not enforce the contract Hohler was nevertheless entitled to insist on its being carried out for their benefit, and that the Rollos entering into possession was a sufficient part performance to take the case out of the Statute of Frauds. He was, however, of the opinion, though not actually deciding it, that the Rollos giving up possession of their country house and going to the expense of removing to the house in question would constitute a valid consideration for the contract to give them the house, which would therefore not be a mere *nudum pactum*.

RESTRICTIVE COVENANTS—COVENANT BY PURCHASER TO PERFORM
RESTRICTIVE COVENANTS BY WHICH VENDOR IS BOUND—
COVENANT TO INDEMNIFY—DWELLING HOUSE.

Reckitt v. Cody (1920) 2 Ch. 452. The plaintiff in this case had purchased land and had given to his vendor a covenant that no detached dwelling house which should be built thereon should be of less value than £800. The plaintiff subsequently sold to the defendant a part of this land and took from her a covenant that she would perform the restrictive covenants by which the plaintiff was bound. The defendant thereafter erected on the premises a hut or shed for use as a schoolroom for boys of a less value than £800. The action was brought to compel the removal of this building. Two defences were raised: (1) that the covenant was