

themselves in need, and secured advances on the strength of divers assignments by way of hypothecation—some of them absolute in form. These assignments, however, with the exception of an assignment by the plaintiff Bothnect to one Nelles, had been cleared up, and re-assignments had been executed and produced. The action should not, therefore, be dismissed or stayed.

The assignment to Nelles was in a different position. The defendant Wright (the mortgagor) and Nelles were business associates. The assignment to Nelles was of one undivided fifty-seventh part of the \$57,000. He did not desire to be redeemed, but lent his aid to the Wrights to block the action, if possible. It was held, at the trial, that the assignment did not defeat the entire action; and that, under Rule 300, the action might be continued by or against the person upon whom the estate had devolved by the assignment; and that—the assignment having been made after the action was at issue and while it was on the list for trial—the assignee had no right to disturb the situation of the action; but he ought to be added as a party: and, as he did not desire to become a plaintiff, in accordance with the principle of *In re Mathews*, [1905] 2 Ch. 460, he was added as a defendant, and the trial was adjourned to allow him an opportunity of delivering a pleading. No pleading was delivered, and Nelles did not appear and was not represented at the adjourned sittings, though he was properly served.

The defendants the Wrights were husband and wife. The husband agreed to purchase the land. The mortgage for part of the purchase-money was executed by the husband and wife, she joining to bar her dower and also as a covenanting party. The conveyance was contemporaneously made to the husband. Some time after it had been registered, in order to rectify certain errors, a supplementary quit-claim deed was prepared, in which both the husband and wife were named as grantees. The plaintiffs alleged that this was by mistake, and asked (by amendment made at the trial) for rectification of the quit-claim deed. In answer to this, the wife denied that there was any mistake, and alleged that there was consideration; and she also set up that, at the time she signed the mortgage, she had no independent advice and signed owing to undue influence on the part of her husband, and that she received no consideration. The learned Judge said that, the wife not having testified, there was nothing on which he could find fraud or undue influence on the part of the husband. An attack upon the whole transaction which gave rise to the mortgage, upon the ground of fraud, also