

further of them till we learn it from the evidence of the plaintiff. Subsequently, *Boulton* treating the property as his own, sold some portions of it to parties defendants in this suit, some of whom have made valuable improvements upon it. It is sworn that the property, exclusive of the mill erected on it by the defendant *Sackville*, is not worth more than £1000, and there is no evidence to increase this valuation.

The bill in this case was filed on the 14th June, 1859, under the circumstances detailed in the following evidence of the plaintiff. [Here his Lordship read the evidence of the plaintiff, above set forth.] The assignment has been lost or mislaid, and the letters referred to as accompanying it are not produced. I suppose it would not be argued that *C. P. Banks* could assign to the plaintiff the right to institute a suit to set aside for fraud the priority of *Boulton's* mortgage, or to impeach the consideration between himself and *Boulton*, on the ground that the latter had neglected his duty as solicitor, or had betrayed his client, or abused the fiduciary relation subsisting between them. *Prosser v. Edmunds* (a), and a long train of cases, in which this one shines as a clear elucidation of the doctrine by which the courts repudiate such transactions, would render any attempt of the kind idle. The most that can be argued for is, that the assignment to the plaintiff gives him a right to redeem the equity of redemption, it being in the eye of this court a substantial estate, which was conveyed away, even though the mortgagee disputes it. However that might be in an ordinary *bona fide* sale of such an estate for value, it was evidently not the chief object nor purpose of the assignment here. If the mortgagee, *Banks*, when he met the plaintiff in the month of February, 1857, wished merely to redeem the property, or to dispose of his equity of redemption as second mortgagee, why hold such a conversation as he then did with the plaintiff? Why then ask the plaintiff to try

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(a) 1 Y. & C. 48.