

to which the plaintiff was entitled. He then, without disclosing to the plaintiff what he had done, endeavoured to persuade the latter that they were worth only 25 cents a share, and sought to induce him to accept that price, and offered to pay him the amount. But the plaintiff took the position that he did not want the money—he wanted his shares. Failing in this, the defendant, still without informing the plaintiff of the sale, wrote him insisting that the transaction between them was only a loan, and sending him a cheque for \$5,100 as in full of the plaintiff's claim.

A few days afterwards, the plaintiff, having in the meantime become aware of the defendant's purpose to transfer the certificate of the shares in pursuance of his agreement to that effect, commenced this action and obtained an interim injunction restraining the defendant . . . from alienating, selling, disposing of, or incumbering the shares or the certificate. Following this came an application to dissolve the injunction, upon which an order was made, by which, after reciting that it appeared from statements made by counsel that prior to the granting of the injunction the defendant had sold and transferred the shares of stock, or had purported so to do, and was desirous of carrying out the said sale, and that counsel for the defendant had in his hands \$10,000 of the purchase-money, and counsel for the plaintiff consenting that, upon payment into Court by the defendant to the credit of this action of the sum of \$5,000, to stand as a security to satisfy the plaintiff's claim in the event of his establishing his claim in this action, the injunction be dissolved, it was ordered that the sum of \$5,000 be paid into Court by the defendant's counsel to stand as security as above mentioned, and that thereupon the injunction be dissolved. The money was paid into Court, and the defendant was freed from the injunction. But he was not freed from his contract nor the consequences of a breach of it.

The subject-matter of the contract being of the nature and character it was in this particular case, it was perhaps possible that relief in the form of specific performance might have been afforded to the plaintiff; but in all probability the action would have terminated, as it eventually did, in a judgment for damages for breach of the contract. In that view, and the plaintiff having in hand the \$5,100 which the defendant had sent him, his counsel appears to have obtained favourable, though not unfair, terms for agreeing to the injunction being dissolved.

It was argued for the defendant that what took place amounted to an adoption by the plaintiff of the sale and that he was bound by the price obtained.