with all his interest on the part of the transferor, and not to a conveyance intended by way of security although absolute in form: *Short* v. *Graham*, *supra*.

A similar view was taken in the recent Ontario case of *Campbell* v. *Douglas*, *infra*, p. 436, that the equitable obligation of the purchaser to indemnify the vendor when the amount of the mortgage is deducted from the purchase price arises only when the purchaser is actually one in fact and not when he is the mere nominee or agent of another. Furthermore, parol evidence is admissible in such case, where the deed fails to set out with precision, to explain the full extent and nature of the transaction.

In order to entitle the mortgagee to a personal judgment against the transferee of the land subject to the mortgage, the statement of claim must expressly allege that the transferee is liable by virtue of the implied statutory covenant under sec. 63 of the Land Titles Act (Sask.). He is entitled to be distinctly informed by what authority he is charged with personal liability: *Colonial Investment* v. *Foisie* (Sask.), 19 W.L.R. 748.

But such judgment is recoverable where the statement of claim sufficiently sets forth all facts necessary to entitle the plaintiff to judgment, and the prayer for relief distinctly states that the relief against the defendant is sought under the implied covenant contained in the Land Titles Act: *Assiniboia Land Co.* v. *Acres*, *infra*, p. 439.

The implied covenant to pay the mortgage debt takes effect notwithstanding that the mortgage or incumbrance is not noted upon the transfer; and the obligation thereunder is assignable by the implied covenantee to the original mortgagor: *Glenn* v. *Scott*, 2 Terr. L.R. 339.

Where land is conveyed subject to a mortgage, and the grantee assumes and covenants to pay and to indemnify the grantor against the mortgage, the grantor, if sued upon his covenant in the mortgage, is entitled, in third party proceedings against the grantee, to immediate judgment and execution for the amount of the judgment obtained against him by the mortgagee: *McMurtry* v. *Leushner* (Ont.), 3 D.L.R. 549.

Under secs. 114 and 126 of the Real Property Act, R.S.M. 1902, ch. 148, as they stood prior to the amendments of the Act 1 Geo. V. ch. 49, a mortgagee, even after foreclosure under the Act, may, if he still retains the property, sue the mortgagor on his covenant for payment; and, therefore, in such a case, a mortgagor who has transferred the property may call upon his purchaser to pay the mortgage money under the implied covenant to indemnify him under sec. 89 of the Act. And payment by the mortgagor in such case is not a condition precedent to his right of action on the purchaser's obligation to indemnify. However, protection may be afforded to the purchaser by payment into Court for the proper application of the money: *Noble* v. *Campbell*, 21 Man. L.R. 597.

It was also held, that in the absence of anything to the contrary in the agreement of sale, no liability is imposed upon a purchaser who assumes the payment of a mortgage upon the land, for interest accruing