

was delivered to the purchaser he discovered that the lease contained a covenant imposing a serious restriction upon the use of the property as business premises. *Held*, by Sterling, J., (1) that, as the property was put up for sale as business premises the purchaser was entitled to have property conveyed to him on which he could carry on business, subject only to the restrictions imposed by the general law of the land, and to such statutory restrictions as might be in force with regard to any particular trade; and (2) that he was entitled to a declaration that title was not such as he ought to be compelled to take.

In *Hudioke & Lepskis Contract* (1901), 2 Ch. 666, the contract, which was for the sale of leasehold premises contained this stipulation: "The vendor's title is accepted by the purchasers." In an action brought by the purchaser for a return of his deposit and a rescission of the contract, on the ground that a good title was not shewn, the applicants relied upon the consideration that the property was subject to onerous and unusual covenants contained in the leases under which they were held, and to provisos for re-entry on breach of any of the covenants. The right of the purchaser to the relief sought was affirmed by North, J., who said: "I am of opinion that the lease do contain covenants which, in the absence of special stipulation or condition in the contract, would entitle a purchaser to say that a good title has not been shewn, inasmuch as the applicants were not informed and did not know that the leases contained any unusual covenants, nor were they afforded any opportunity of seeing the leases prior to signing the contract. It is, I think, now well established that, whether the sale be by private contract or public auction, it is the duty of the vendor to disclose the existence of onerous and unusual covenants contained in the leases of the leasehold property sold, or at least to afford the purchaser an opportunity of inspecting the leases: *Reeve v. Berridge*, 20 Q.B.D. 523; *In re White & Smith's Contract* (1896), 1 Ch. 637." The learned judge's conclusion was that, having regard to this rule, it required more than a condition couched in such general terms as in the case before him to bind the purchaser to take the title.

In *Lyons & Carroll's Contract* (1896), 1 Ir. Rep. 363, 387, one of the conditions of sale bound the purchaser to admit that, after the tenant for life of the estate, and one of his sisters, had died, the entire interest in the premises became vested in the surviving sisters, and that a conveyance by two of these sisters to the third (the vendor) vested in her a good title in fee simple. The condition did not state, though the fact was so, that one of the surviving sisters who had joined in the conveyance had children living; nor did it state that it was the contention of the vendor that the conveyance by her sisters operated as a release of the testamentary power of appointment given them by the will of their deceased brother. *Held*, by the majority of the Court of Appeal that the condition was misleading, and therefore not binding on the purchaser.

It has been held that a condition of sale requiring the purchaser to assume certain facts is not misleading in such a sense