

which was the securing of plaintiff against loss, had been attained, and Livingston himself would then become beneficially entitled again to the surplus rents. There is plainly a sufficient interest in plaintiff to entitle her to maintain this action: *Fletcher v. Fletcher*, 4 Hare 67, 75, 78; *Gandy v. Gandy*, 30 Ch. D. 57, 54 L. J. Ch. N. S. 1154. But it is equally clear that defendant is entitled to have T. C. Livingston, with whom testator entered into the covenant to pay plaintiff, made a party to the action in order that he may be bound by the proceedings: *Daniell's Ch. Prac.*, 7th ed., pp. 163, 172; *Mitford's Eq. Pldg.*, 5th ed., p. 164. . . . Order made that, upon payment on or before 15th September next of the costs of the trial and of the appeal, plaintiff have leave to amend by adding T. C. Livingston as a defendant, with proper amendments to the proceedings, to be made before 1st October next; and that, in default of such payment or such amendments, the action and appeal be dismissed, both with costs, and the plaintiff's rights finally barred.
