

original agreement. It is a pure matter of contract, and not of equities, unless the original vendor chooses to put himself in a position which gives rise to some new right: *Dyer v. Pulteney*, Barn. Ch. 160. . . .

[Reference to *Fenwick v. Bulman* (1869), L.R. 9 Eq. 165; *Fry on Specific Performance*, 5th ed., p. 85; *Sugden on Vendors*, 14th ed., p. 232; *Waterman on Vendors*, p. 83; *Williams on Vendor and Purchaser*, 2nd ed., p. 571; *Browne v. London Neeropolis Co.*, 6 W.R. 188; *Shaw v. Foster*, L.R. 5 H.L. 321.]

Dealing as he did, and becoming a purchaser from Gordon of the equitable interest which Gordon had under the original agreement, the plaintiff has put himself in a position similar to that of any other transferee of land with notice that his vendor had previously agreed to sell it to another party. He becomes bound to carry out his immediate vendor's bargain. Gordon's agreement was to convey the fee simple in a one-fourth interest to the defendant; and Gordon had a right, upon performing his contract with the plaintiff, to acquire that fee. The plaintiff has in effect released Gordon from that performance, i.e., the payment of the money properly attributable to it. Does this fact enable him to avoid what otherwise seems his clear liability? I do not think so. The effect of the quit-claim deed as a conveyance was to transfer all Gordon's interest in the lands, and it resulted in his being relieved of the liability to pay for them. But it could not operate to convey the interest of the defendant, which was to get the fee from Gordon on payment of the stipulated amount. The notice to the plaintiff, through the registry office, was of the defendant's full rights (*Gilleland v. Wadsworth*, 1 A.R. 82; *Gray v. Coughlin*, 18 S.C.R. 553); and, when the former acquired Gordon's equitable interest, he could only merge it effectively with his legal interest by relieving Gordon from the payment, upon receipt of which that interest was to be conveyed to Gordon. He could not release Gordon, while acquiring Gordon's entire interest, so as to prejudice the right which Gordon had given to a third party. And, under the circumstances, and having by his dealings rendered it impossible for the defendant to perform the original contract, I think that the plaintiff became liable to perform Gordon's contract with the defendant upon assuming the position of a purchaser with notice: *Flinn v. Pountain* (1889), 37 W.R. 443; *Chesterman v. Gardner*, 5 Johns. Ch. (N.Y.) 29; *Meux v. Maltby*, 2 Swans. 277; *Taylor v. Stibbert*, 2 Ves. 437; *Lightfoot v. Heron*, 3 Y. & C. Ex. 586; *Reilly v. Garnett*, I.R. 7 Eq. 1; *Waldron v. Jacob*, I.R. 5 Eq. 13.