

obvious that a purchaser relying on a possessory title would, nevertheless, be affected with notice of, and bound by, the covenant.

VENDOR AND PURCHASER—CONDITION OF SALE ALLOWING VENDOR
TO RESCIND IF OBJECTION INSISTED ON — MISDESCRIPTION —
ABSENCE OF TITLE TO MINERALS—COMPENSATION.

In re Jackson & Haden (1906) 1 Ch. 412. The Court of Appeal (Collins, M.R., and Romer and C. zens-Hardy, L.J.J.,) have affirmed the decision of Buckley, J., (1905) 1 Ch. 603 (noted ante, vol. 41, p. 532), but not on precisely the same grounds. The question was one between vendor and purchaser. Property had been sold subject inter alia to conditions of sale (1) providing that the vendors might rescind if the purchaser insisted on any objection which the vendors should "be unable to remove or comply with"; and (2) entitling the purchaser to compensation in the event of misdescription. The property consisted of a villa residence; the vendors had no title to the mines or minerals, but in offering the property for sale they did not except them. The purchaser required the vendors to make title to the minerals or in default claimed compensation. The vendors then claimed to rescind. Buckley, J., held that the condition entitling them to rescind did not apply because the objection in regard to the minerals was not "an objection to title," because the vendors had no title at all thereto, and, as he said, "you cannot object to that which has no existence." The Court of Appeal, on the other hand, held that the objection was "an objection to title," but it was, nevertheless, not open to the vendors to avail themselves of the condition for rescission, because such a condition cannot be relied on where the vendor has been guilty of fraud, dishonesty, or recklessness in entering into the contract: here the Court considered the vendors had been guilty of recklessness in describing the property so as to include the mines, to which they knew or ought to have known that they had no title; and, therefore, they were not entitled to rescind, but that the purchasers were entitled to performance with compensation for the misdescription.

VENDOR AND PURCHASER—SALE BY COURT—CONDITION FOR RES-
CISSION — MISREPRESENTATION — RESCISSION — PURCHASER'S
COSTS RECOVERABLE ON RESCISSION—COSTS.

Holliswell v. Seacombe (1906) 1 Ch. 426 is a cognate case to the two preceding. Here the sale was had under the order of the Court subject to a condition entitling the vendor to apply to