to enforce specific performance of the contract, as to which the learned judge expressed some doubt, yet he was clear that the purchaser had no ground for claiming a return of his deposit, and he dismissed the application.

COSTS—TRUSTEE—CESTUI QUE TRUST—STATUTE OF LIMITATIONS—COSTS PAYABLE BY TRUSTEES TO THEIR SOLICITORS.

In *Budgett* v. *Budgett*, (1895) 1 Ch. 202; 13 R. Jan. 141, one of the principal questions was whether, upon the taxation of costs claimed by a trustee as against the trust estate, it was competent for the beneficiaries against the will of the trustees to insist on the disallowance of items in the bill which appeared to be barred by the Statute of Limitations, some of which had been paid by the trustees after they were barred, and others of which remained unpaid. Kekewich, J., was of opinion that the *cestui que trust* could not compel the trustees to set up the Statute of Limitations as against their own solicitor. He drew a distinction between the case of an executor or administrator and a trustee on the ground that in the case of a personal representative he is not paying his own debt, but the debt of the deceased, and the persons beneficially interested in his estate are entitled to require the statute to be set up as against such claims; whereas a trustee is personally liable to his solicitors for the costs incurred in the matter of the trust estate, and the debt is his own, and he is entitled to be indemnified against all honest claims which may be made against him in respect thereof, and cannot be compelled to set up the statute as a bar to such claims, against his will.

STATUTE OF LIMITATIONS, 1833 (3 & 4 W. 4, C. 27), S. 34—(R.S.O., C. 111, S. 23)—MORTGAGEE—EXTINGUISHMENT OF TITLE OF PRIOR MORTGAGEE—POSSESSION OF MORTGAGOR—VESTING OF LEGAL ESTATE—ACKOWLEDGMENT OF TITLE.

Kibble v. *Fairthorne*, (1895) 1 Ch. 219; 13 R. Jan. 215, is a somewhat important decision of Romer, J., of a point arising under the Statute of Limitations, 1833 (3 & 4 W. 4, c. 27), s. 34—(R.S.O., c. 111, s. 23). A mortgagor in possession, who had acquired title as against his mortgagees under the Statute of Limitations, made a second mortgage, which was in the form of a first mortgage. Subsequently the mortgagor gave an acknowledgment of the title of the first mortgagees. The second mortgagee then brought the present action, claiming a declara-