

with the defendants under which they claimed and took possession of the pease.

Under this agreement—quite a common one in these days—Stutt was to grow, upon the plaintiff's land, the pease in question, for the defendants, who were to supply the seed and might supervise the crop and enter on the land to bestow upon it, before or after harvest, any labour of their own to enhance its quality or purity or to avoid unreasonable delay in the delivery thereof; “and whose property the crop growing in all its conditions shall be and remain at all times.”

It could not reasonably be doubted that such an agreement was quite a valid one in law, whether the pease became or did not become at any time part of the land. The agreement was in writing signed by both parties to it.

The only question there could be was whether the plaintiff had a prior right to the pease in question under the transaction between Stutt and him.

That transaction was evidenced by a printed lease of a very formal character, signed by the parties to it, which purported, in proper technical language, to be a demise of the land for one year, the rent reserved being one dollar, payable on the day of the date of the lease, “and one-third share or portion of the whole crop of the different kinds and qualities which shall be grown upon the said demised premises.”

If the transaction were really a demise of the land, giving the tenant the exclusive right of possession of it for the year, with a right in the landlord only to distrain for rent at the end of the year, it ought to be obvious that he had no right which could prevent Stutt making the bargain he did make with the defendants; and that no delivery of the pease by Stutt to the plaintiff could deprive them of their rights to them.

On the other hand, if the form of the transaction were disregarded and it were considered one under which the plaintiff was at all times to have a one-third share of all the crops grown upon his land, it might well be that that earlier right should prevail over the later-acquired rights of the defendants, provided that, under the real agreement between the plaintiff and Stutt, Stutt had not power to make such an agreement as that which he actually made with the defendants to grow the seed-pease for them.

So that it really all came down to the simple question: did the plaintiff acquire a right to one-third of all crops grown by Stutt on the plaintiff's land, without any right in Stutt to make for the plaintiff as well as himself the agreement he did make with the defendants—acquire it when the lease was made; if so, this appeal should be dismissed; otherwise, it should be allowed and the action should be dismissed.