

to and did not execute the contract. The contract provided that the sale and purchase of the property be completed and possession delivered on the 15th May. On the 14th May the plaintiff moved into the property, the defendants being still in personal occupation of it: the sale had not then been carried out by the payment of the purchase-money and delivery of the deed. The plaintiff said that he moved in, in pursuance of an arrangement by which he was to occupy two rooms on the ground-floor, and give the defendants until the 5th June to vacate. Following the making of the contract, and continuing until a considerable time after the plaintiff had moved into the premises, communications and the draft conveyance and the draft mortgage were exchanged between the solicitors for the respective parties as if the defendant Martha Davis was a co-owner and a party to the sale; and it was not until June, when the defendants found difficulty in obtaining another house for themselves, that the objection was taken that the sale could not and should not be carried out, because Martha Davis was not a party to the contract. Both defendants were cross-examined on affidavits made in answer to the plaintiff's motion. Martha Davis was contradicted in several material respects by her husband—for instances, in her denial that she was present when the agreement for sale was made and signed and that she took part in discussing the terms of the sale. In answer to a question why objection was not taken to the plaintiff's moving into the house, Edward T. Davis said that he and his wife gave the plaintiff and his family a chance to go in because they had no place to go until such time as the defendants could move out. He also contradicted his wife when she denied that she accompanied him to their solicitor's office to give instructions for the preparation of the deed and submitting it to the plaintiff's solicitor. There was ample reason for continuing the injunction. It would not be conducive to the sanitation of the premises, or the health of the occupants of the house, to deprive the plaintiff and his family of the use of water and gas; and, in view of the plaintiff's evidence, and the admissions of the defendant Edward T. Davis, the other alternative—to compel the plaintiff to move out—would not be proper in the circumstances. The plaintiff should, however, pay a reasonable sum for the use of the gas and water: if the parties should not come to an understanding as to what was a reasonable sum, the case might be mentioned to the learned Judge. The injunction should be continued as asked; the defendants' motion should be dismissed; and costs of both motions should be in the cause. H. J. Macdonald, for the plaintiff. T. Moss, for the defendants.