

brought action for specific performance, relying (in answer to the defence and counter-claim for rescission on the ground of misrepresentation) on the fact that the defendants had made their own inquiries. Held, that the statement that the property was held by a "most desirable tenant" could not be treated as "*simplex commendatio*," and that the defendants, having relied thereon, were entitled to rescission of the contract, on the authority of *Redgrave v. Hurd*, L. R. 20 Ch. Div. 1.

The report made by the secretary was as follows:—

"I visited Walton-on-the-Naze with a view of inspecting the Marine Family Hotel. The hotel has been built over forty years, and up to a recent period enjoyed a high reputation as a respectable and thriving family hotel. Mr. Fleck, the landlord, from the amount of business he is now doing, can scarcely pay the amount of rent with rates and taxes. It seems to be a mystery in the town itself how Mr. Fleck, with his eyes wide open, could have been induced to take the hotel at present rental. The only thing that I can see that can be done with the hotel to make it pay as an investment would be to make the small theatre into a kind of music-hall, and to convert the billiard-room into a sort of casino. The town itself seems to be in the very last stage of decay from beginning to end; the whole pier wrecked on the 18th Jan., 1881, has never been repaired. The landslip, which occurred on above occasion, has never been made good."

The action came on for trial, when the following evidence was given by the Lord Mayor, who was the chairman of the defendants' board on the 1st Aug., when Mr. McLewin was ordered to attend the sale and bid for the property:

"We had at the time no information as to Fleck's position except the particulars of sale. The secretary was instructed to bid 5000/. On the 1st Aug. there was a discussion; the particulars were before us; the "desirable tenant" was the most important part of the whole of the particulars, especially after the secretary's report. That, as far as I can see, was