

that if the purchasers should insist on any requisition which the vendors should be unwilling or unable to remove, they should be at liberty to rescind the contract, and should thereupon return the deposit "without any interest, costs of investigating the title or other compensation, or payment whatsoever." Before the vendors had elected to rescind under this condition, the purchaser had commenced the proceedings under the Act, and the question was whether the condition ousted the jurisdiction of the Court over the costs of these proceedings, the vendors having, pending the application, elected to rescind. Farwell, J., held that it did not, and ordered the vendors to pay the costs.

VENDOR AND PURCHASER—PURCHASER'S LIEN FOR DEPOSIT—PURCHASER WITH NOTICE OF CONTRACT.

In *Whitehead v. Watt* (1901) 1 Ch. 911, a parcel of land was contracted to be sold subject to 300 houses being erected thereon, when the contract was to be completed. The purchaser, if the houses were not erected by a certain date, had the right to rescind. The vendor subsequently sold the estate to a third party with notice of the contract. The houses were not erected and the purchaser elected to rescind the contract and claimed a lien on the estate in the hands of the purchaser for his deposit. Farwell, J., held that he was entitled to a lien and gave judgment therefor in his favour.

TENANT FOR LIFE AND REMAINDERMAN—APPORTIONING OF LOSS.

In *re Bird* (1901) 1 Ch. 916, a partial loss had been made of a trust fund, through an improper investment in an unauthorized security, and the question to be determined was how the loss should be apportioned as between a deceased tenant for life's estate and the remainderman. Farwell, J., thought the authorities were in a perplexing condition, but held that the loss of income and capital must be apportioned, the tenant for life being entitled to such a proportion of the amount realized from the unauthorized investment plus the income he received therefrom during its continuance as the dividends he would have received from the authorized investment in the same period, bear to the capital value of the unauthorized investment plus those dividends, he being also liable to bring into account all income he received from the unauthorized investment, although not liable to refund any overpayment.