

on the day named. After he came of age judgment was recovered against him by default and a receiving order in bankruptcy was made against him. On an appeal, the receiving order was set aside without prejudice to any action the plaintiff might take for the purpose of enforcing any equitable liability the defendant might have incurred for obtaining the goods by false pretences. The present action was therefore instituted, in which the plaintiff claimed that the defendant should be ordered to pay her the reasonable value of the goods. Lush, J., who tried the action held that, in the circumstances, the defendant was liable to pay the plaintiff the £30 and £100 he had actually received for the goods and gave judgment for those sums, less a set-off to which the defendant was found entitled.

The following passage from his judgment appears to contain a convenient summary of the law:—

That an infant who appears to be of full age, and who has made an express representation that he is of full age fraudulently, and to deceive some other person, incurs an equitable liability under some circumstances is clear enough. He cannot be sued for damages, although he is, generally speaking, liable for a tort; the reason being that a temptation would be offered both to the infant himself, and to other persons to enter into contracts if the other party were able, by obtaining a representation of majority by the infant to make the contract practically effective. For the more complete protection of the infant, the law prevents the other contracting party, not only from suing on the contract, but also from suing for damages, if the fraud is connected with and forms the inducement to the contract. Nor is the infant estopped from proving the true facts; which again, if such an estoppel were permitted, would deprive the infant of the protection necessary for his security. What the Court of equity has done in cases of this kind is to prevent the infant from retaining the benefit of what he has obtained by reason of his fraud. It has done no more than this, and this is a very different thing from making him liable to pay damages or compensation for the loss of the other party's bargain. If the infant has obtained property by fraud he can be compelled to restore it; if he has obtained money he can be compelled to refund it. If he has not obtained either, but has only purported to bind himself by an obligation to transfer property or pay money, neither in a court of law nor in a court of equity can he be compelled to make good his promise or to make satisfaction for the breach."