

BUILDING SCHEME—PLAN—IMPLIED REPRESENTATION—POWER TO PERMIT VARIATION—BLOCKING UP ROAD—CUL-DE-SAC—DEDICATION—USER.

*Whitehouse v. Hugh* (1906) 1 Ch. 253 was an action to restrain the blocking up of a road. The plaintiff was the owner of a house built on a plot which formed part of an estate laid out by a building society in accordance with a scheme. On the side of the plaintiff's plot a vacant space was shewn on the plan, which, though not named as a road, had been roughly made up by the society as a road leading to a railway track over which the society had a private way to lands owned by it on the other side of the track. The society had released this right of way, and the road was in fact a cul-de-sac. All the plots on the building estate were sold subject to a condition reserving to the vendors power "of allowing a variation of the plans and conditions." The society sold the vacant space in question to the defendant, who proceeded to dig it up with a view to building. The plaintiff claimed to restrain the defendant from building on the vacant space or diverting it to other purposes than that of a road. Kekewich, J., held that there was nothing in the plan to indicate that the vacant space was reserved for a road and that the user of it as a road was not sufficient to constitute a dedication of it as a public highway, adopting in this respect what was said by Farwell, J., in *Attorney-General v. Antrobus*, viz., that in no case has mere user by the public been held sufficient to constitute a dedication to the public of a cul-de-sac; and he also held that the reservation of the power to the vendors to allow variations of the plans or conditions, qualified the plaintiff's rights under the building scheme and enabled the vendors to permit the defendants to use the vacant space as he proposed to do. The action was, therefore, dismissed.

ADMINISTRATION—STATUTE OF LIMITATIONS—"PRESENT RIGHT TO RECEIVE THE SAME"—RIGHT OF ACTION AT LAW—INCAPACITY TO SUE CO-EXECUTOR AT LAW—EQUITABLE RIGHT OF ACTION—LAW OF PROPERTY AMENDMENT ACT, 1860 (23 & 24 VICT. C. 38), s. 13—(R.S.O. c. 72, s. 9).

*In re Pardoe, McLaughlin v. Penny* (1906) 1 Ch. 265 shews that the distinction between law and equity is still of vital importance. In this case a sum of money to which three executors of a deceased person's estate were entitled was, in the year 1864, paid to two of the executors, one of these executors being entitled to a life estate in the fund, and the other being her husband. The husband died in 1884, having paid the whole fund