

subject to the jurisdiction of the Court. A solicitor obtaining such an order knowing of the defect would be guilty of grave misconduct and would be committing a fraud on the Court as on all *ex parte* applications *uberrimae fides* is required on the part of the applicant. If he did it ignorantly the proceedings, though not reprehensible from a moral standpoint, would be none the less nugatory.

As regards purchasers from the mortgagor in such circumstances we do not think that the law "Transfer of Property Act" would protect them. S. 56 of that Act provides that "An order of the Court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction, or want of any concurrence, consent, notice or service."

But no Court has power to pronounce judgments against persons who are not parties to the proceedings in which a judgment is pronounced. All that this statutory provision does is to make the judgment of the Court binding on those whom on its face it purports to bind, as far as purchasers are concerned, even though as against such persons there may have been a want of jurisdiction, but there is nothing in that statute which makes a judgment against A., who appears to be a party to the proceedings, binding on his representatives in case A. be dead, where such representatives are not parties. It is enough to say the judgment does not purport to bind them.

Before the Judicature Act it was a well understood principle of equity procedure that in a redemption action all persons interested in resisting the right of redemption ought to be made parties to the suit, but this elementary principle seems to have been forgotten in the constitution of the action in question. Formerly the Court of Chancery would not pronounce judgment in suits where the proper parties were not before it. Nowadays such defects seem to be regarded as immaterial, whether in this respect we can be said to have improved on the former procedure may perhaps be open to question. At all events the modern method seems to leave the door open to further litigation and the possibility of conflicting decisions on the same question.