

benefit of the lands so acquired without accounting therefor to the plaintiffs. . . .

Prior to March, 1900, certain shareholders of the plaintiffs had applied for allotments of land in exchange for their holdings of stock in the company (this mode of settlement having been sanctioned by the Government), and allotments of land were made to them and their stock surrendered; but, on the adjustment, certain balances of cash were due by the allottees to the plaintiffs; and, in consequence, the plaintiffs held, undelivered until payment should be made, the transfers of the lands which had been executed to the allottees. In March, 1900, when, the defendant alleges, the plaintiffs authorised him to receive and retain the balance of the plaintiffs' assets in settlement of his claims, balances were still due to the plaintiffs by certain of those allottees, and the transfers . . . remained in the plaintiffs' hands. These balances not having been paid, the defendant, according to his own evidence, later on issued notices to the delinquents that unless payment was made within three months the transfers would be cancelled. Some of the delinquents not having paid within the time specified, the defendant, of his own accord and without the knowledge or authorisation of the plaintiffs, cancelled the transfers, and in the plaintiffs' name made new transfers . . . to his wife, Annie A. Moore. What the defendant sets up is that he (or Mrs. Moore) took these lands instead of the balances due by the allottees to the company. . . . The plaintiffs claim the value of these lands.

The form of agreement with and transfer to the allottees is not produced; but the evidence of the defendant is that the plaintiffs did not therein reserve any right to cancel the transfers on non-payment of the balances due by the allottees. That being so, the remedy would not have been to retake the lands, but to recover from the allottees the balances so due. . . . What the plaintiffs are entitled to is, not the lands or their value, but the balances which were due by the allottees whose transfers the defendant assumed to cancel, with interest; and there will be a reference to the Master in Ordinary to ascertain these amounts. . . . The plaintiffs are entitled to interest on sums payable to them from the time the same, or the benefit thereof, were received by the defendant. The rule as to the charging of interest as laid down in such cases as *Small v. Eccles*, 12 Gr. 37, is, I think, applicable here.

A defence set up by the defendant is that the plaintiffs' claims are barred by statute. I cannot accept this view. The