is made, repossess himself of the article agreed to be sold; and, if he does that, the purchaser's rights to it are at an end; or, having a power of sale, he may exercise it, but is not bound to do so: McEntire v. Crossley Brothers, [1895] A.C. 457.

Section 8 of the Act alters the rights of the vendor and purchaser. The vendor may no longer, if default is made, put an end to the purchaser's rights by taking possession, but the purchaser is given the right, for 20 days after possession is taken, to redeem.

Cook & Mitchell appeared to have acted in accordance with this view; for, after what they treated as a taking of possession, they waited the 20 days before going through the form of selling to Minnie Whyte.

What occurred was not a retaking of possession within the meaning of sec. 8. Cook & Mitchell deliberately concealed from McHale and his vendee that they had done what they deemed to be taking possession—and that for the very purpose of preventing them from exercising the right which the statute gives.

Even if there was a retaking of possession, the concealment with the design mentioned precluded the defendant Meyers from availing himself of it as a retaking of possession within the meaning of the statute.

The learned Chief Justice was not to be taken as concluding that in no case could there be a retaking of possession, within the meaning of sec. 8, unless what was done was sufficient to give notice, to the person entitled to redeem, that possession had been retaken. All that was decided was, that, in the circumstances of this case, there was not a retaking of possession, within the meaning of sec. 8, and that the effect of the section is to postpone the right to exercise the power of sale until the expiration of 20 days from the time possession is retaken.

It was contended for the respondent that, by accepting payment after default, Roche waived his right to retake possession, and that that right could not be exercised without a request first being made for payment of the balance remaining due in support of the purchase-price, and, among other cases, French v. Row (1894), 77 Hun 380, and Cunningham v. Hedge (1896), 76 N.Y. St. Repr. 547, 12 N.Y. App. Div. 212, were cited. These cases, however, were distinguishable, because in none of them was there any power of sale in case of default.

Appeal dismissed with costs.