

cited. Accepting the affidavit of the vendor, the legacies in question are barred. . . . The legatees are not before the Court, and consequently they are not bound by any decision upon that point. See also *Re Davis, Evans v. Moore*, [1891] 1 Ch. 119.

Whether the legacies are barred or not, the vendor has the right to sell; and the purchaser is not, in my opinion, bound to see to the distribution of the purchase money . . . : *Re Henson, Chester v. Henson* (1908), 77 L. J. N. S. Ch. 598, 601. . . .

There is a direct conflict between the purchaser and the vendor as to how or why the purchaser did take possession. I must deal with it as if the purchaser went into possession without any consent, or under any agreement, express or implied. . . . The purchaser, having taken possession and altered the property, is not entitled to insist that the requisition as above mentioned should be complied with.

The purchaser must complete his purchase by paying the purchase money and interest thereon at 5 per cent. per annum from the 24th May, 1909. . . .

The purchaser must pay the costs of this application.

As to possession, see *Calcraft v. Roebuck*, 1 Ves. Jr. 221.

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DIVISIONAL COURT.

NOVEMBER 30TH, 1909.

HORRIGAN v. CITY OF PORT ARTHUR.

*Municipal Corporations—Contract with Hydro-Electric Power Commission—Powers of Council—Submission of Question to Electors—Invalidity—Necessity for Existing By-law—Statutes.*

Appeal by the defendants from the decision of CLUTE, J., ante 169.

The appeal was heard by MEREDITH, C.J.C.P., TEETZEL and RIDDELL, JJ.

I. F. Hellmuth, K.C., for defendants.

H. Cassels, K.C., for plaintiff.

MEREDITH, C.J., after stating the facts, said that, according to the provisions of sec. 11 of the Power Commission Amendment Act, 9 Edw. VII. ch. 19 (O.), it is only when a question has been submitted to the electors of the municipality pursuant to paragraph 1a of sec. 533 of the Consolidated Municipal Act, 1903, and the amendments thereto, including the amendment made during the present (1909) session, as to a supply of electric power from the Commission, and the electors having voted in favour of a supply from the