

dispute so as to effect his opponent, the foundation on which the doctrine rested being the impossibility of bringing an action or suit to a successful termination if alienation pendente lite was permitted to prevail. The mere existence of the action is no longer notice of the lis. That is to be given by the registration of the prescribed certificate. But the object and effect of the notice so given are the same as before, namely, to prevent alienation pendente lite. Heath was a purchaser ante litem, and as such was clearly a necessary party to the action when it was brought or as soon as plaintiff became aware of his deed. If he had been a party, he would have had all the notice that the registration of a certificate of lis pendens could have given him, but no one could have successfully contended that he was not still entitled to register his deed, or that, if he omitted to do so, his defence of a bona fide purchase for value without notice would have been affected thereby. . . . Sanderson v. Burdett, 16 Gr. 119, 127, followed. Millar v. Smith, 23 C. P. 47, distinguished.

Even if, however, I had taken a different view of the effect of the registration of the lis pendens, I should have been of opinion that the great and unexplained delay in proceeding with the action against Heath would have disentitled plaintiff to relief. He was aware of Heath's deed some time . . . before the 23rd May, 1901, when the writ and statement of claim against defendant Preston were served . . . nearly a year after the registration of the lis pendens. Before this, defendant Heath had paid the whole of his purchase money without notice, in fact; but the case was brought to trial in his absence, and no proceedings were taken against him until 31st March, 1903, when he was made a party and the pleadings amended. . . . The property was of a speculative nature, the registration of the lis pendens prevented its further alienation, and plaintiff was doubly bound to prosecute the action with diligence and bring it to a speedy result: Smith v. Hughes, 5 O. L. R. 238, 244, and cases there referred to; Fry on Specific Performance, 4th ed., pp. 475, 478; Finnegan v. Keenan, 7 P. R. 386; Somerville v. Kerr, 2 Ch. Ch. 154.

As against defendant Heath, therefore, I dismiss the action with costs.

As against Preston there cannot, of course, be specific performance, but plaintiff contends that damages ought to be awarded to him for the loss of his bargain. . . . Bain v. Fothergill, L. R. 7 H. L. 158, distinguished. . . . The defendant Preston knew, as appears by his letter of 20th Jan-