

appealed against. The contention most earnestly pressed by the appellant was, that the acceleration of the payments was a forfeiture and should be relieved against; but that contention was untenable. *Boyd v. Richards* (1913), 29 O.L.R. 119, and the cases followed—*In re Dagenham (Thames) Dock Co.* (1873), L.R. 8 Ch. 1022, and *Kilmer v. British Columbia Orchard Lands Limited*, [1913] A.C. 319—had no application to such a case as this.

*Appeal dismissed with costs.*

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NOVEMBER 26TH, 1915.

\*ROBINSON v. MOFFATT.

*Infant—Contract to Purchase Land—Title—Repudiation—Absence of Fraud—Vendor and Purchaser—Action to Recover Money Paid on Account of Purchase—Rescission—Specific Performance—Costs—Appeal.*

Appeal by the plaintiff from the judgment of SUTHERLAND, J., ante 99.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

J. J. Gray, for the appellant.

W. E. Raney, K.C., for the defendant, respondent.

The judgment of the Court was delivered by RIDDELL, J., who said that it is well established that a purchaser may, on discovering the vendor's lack of title, repudiate the contract, but he must do this with reasonable promptness: *Dart on Vendor and Purchaser*, 7th ed., vol. 2, p. 1067. Here the plaintiff knew of the defect, and thereafter himself tried to sell the land, made payments on it, tendered a mortgage made by himself upon it, and in all things acted as though the contract was valid—it is not open to him to repudiate on that ground alone.

As to the failure to convey, the vendor must be in a position to make a good conveyance at the date fixed for completion: *Murrell v. Goodyear* (1860), 1 DeG. F. & J. 432; and a conveyance by himself and not another: *In re Bryant and Barningham's Contract* (1890), 44 Ch. D. 218; *In re Thompson and*

\*This case and all others so marked to be reported in the Ontario Law Reports.