

ceipt of his transfer in their favour, and subsequently agreed to hold the 150 bags to the plaintiffs' order; whereupon the plaintiffs completed the purchase and paid the price, less the amount of a debt then owing to them by Fletcher. Grey & Co., having discovered Fletcher's fraud then induced the defendants to retain the 150 bags, and they refused to deliver them to the plaintiffs. Cave, J., held that the defendants could not set up the title of Grey & Co. as against the plaintiffs, but that the measure of damages was only the amount actually paid, and that the amount of Fletcher's debt, which had been deducted from the price agreed to be paid, could not be recovered. Both plaintiffs and defendants appealed, the former on the ground of the inadequacy of the damages, and the latter on the ground that the plaintiffs were not entitled to succeed at all. The Court of Appeal (Lord Halsbury, and Lindley and Smith, L.JJ.) were of opinion that the plaintiffs were entitled to succeed on the ground that Grey & Co. had, by their conduct, enabled Fletcher to hold himself out as the true owner of the 150 bags of sugar, and the defendants were estopped by having attorned to the plaintiffs from impeaching their title, or setting up the *jus tertii* of Grey & Co., and that their refusal to deliver the goods was a conversion, and that the true measure of damages was the market value of the goods at the date of the conversion, which was fixed at the price the plaintiffs had agreed to pay therefor, for the full amount of which they gave judgment in favour of the plaintiffs, holding that no deduction should be made in respect of the debt of Fletcher to the plaintiffs which had been set off against the price.

PRACTICE—PROBATE ACTION—RES INTER ALIAS ACTA—WILL, VALIDITY OF.

*Young v. Holloway*, (1895) P. 87, was an action for the revocation of a probate, in which the defendants applied to dismiss the action as frivolous, on the ground that in a previous proceeding the validity of the will had been attacked and had been held valid, and the plaintiff was cognizant of those proceedings, and might have intervened. It appeared that the plaintiff was cognizant of the former proceedings, and had assisted the plaintiff therein, but according to his affidavit he did not know then that he had any interest in the suit or was entitled to intervene. The ground of his present action was that the will, which had been declared valid, was, in fact, a forgery, and that he was a legatee under a former valid will, which there had been a con-