

favour of one Minns. (4) A mortgage on property A. in favour of defendant Howard for £6500. It will thus be seen that Howard was the first mortgagee on both properties for £6000, and was also second and fourth mortgagee on property A. for £2500 and £6500. The plaintiff had been originally the holder of the second mortgage on property A. for £2500, and had assigned it to Howard in order to give him priority over it in respect of his fourth mortgage. The question was on what terms, under these circumstances, the plaintiff was entitled to redeem. As owner of property B. he claimed to be entitled to redeem the prior mortgage on that property, and as a necessary incident of his right of redemption of that property he was also entitled, on paying off the debt, to an assignment of all securities held by Howard therefor; but there came the question on what terms property A. would then be redeemable by Howard as subsequent mortgagee. Romer, J., solved the difficulty by declaring that on redemption of properties A. and B. by the plaintiff he would be entitled, as against the subsequent incumbrancers, to hold parcel A. subject to redemption on payment of a proportionate part of the first mortgage according to the value of property A. relative to that of property B. This the Court of Appeal (Lindley, Lopes, and Kay, L.JJ.) held to be correct. The fact that the plaintiff had been a subsequent incumbrancer on property A., and had assigned his incumbrance on that property to Howard with the intention of giving Howard priority on that property in respect of his fourth mortgage, was held not to deprive the plaintiff of his right of redemption as owner of property B.

LEASE—SURRENDER BY ACT AND OPERATION OF LAW—ORAL ASSENT OF LESSEE TO LEASE TO ANOTHER—CHANGE OF POSSESSION—STATUTE OF FRAUDS (29 CAR. 2, C. 3), S. 3—COVENANT FOR QUIET ENJOYMENT—INTERESSE TERMINI.

In *Wallis v. Hands*, (1893) 2 Ch. 75, Chitty, J., was called on to decide two questions of interest. The first was as to the effect of a new lease in possession made with the oral assent of the tenant in possession under a prior subsisting lease. It was contended that the oral assent to the new lease operated as a surrender in law of the prior lease; but it was held that inasmuch as it was not accompanied by any delivery up of possession to the new lessees it did not have that effect, and that such oral assent was insufficient to take the case out of the Statute of Frauds, s. 3.