

of Chancery will not deprive a purchaser of his equitable estate merely on account of delay nor will it deprive a vendor of his right to the money for this reason alone. Titles being so much older and more complicated in England than here one might wonder whether the rule would apply equally to sales of land in Ontario. The point was, in fact, considered soon after the establishment of Courts of Chancery in Ontario in *McDonald v. Elder* (1850) 1 Gr. 513 at p. 522 *et seq.* and *O'Keefe v. Taylor* (1857) 2 Gr. 95, and the Court concluded that the equitable rule ought to be introduced and if anything extended in Ontario not because of the complexity of titles but because of the greater frequency of sales here, the fact that many purchasers took possession under contracts, and deeds were not obtained till later and because of the general looseness of land transactions. These considerations hardly apply with the same force now but there can be no doubt that the equitable rule remains here; see *Foster v. Anderson*, 15 O.L.R. 362, 16 O.L.R. 565, 42 S.C.R. 251. It is no harm to point out that the Judicature Act (1881), expressly preserved the equitable rule, though curiously enough the statute is seldom referred to in the cases. It now forms part of the Mercantile Law Amendment Act, R.S.O. c. 133 s. 15.

Concluding, therefore, as we must that a purchaser does not always lose his equitable title to lands because of his delay the next point to consider is whether there are any limits to the indulgence granted by the Court of Chancery. In discussing this question we may properly omit as irrelevant all questions arising out of waiver by the opposite party. It is no doubt true that the provisions as to time may be waived expressly or by conduct, but where there is an extension of time on this account it is referable not to any indulgence granted by the Court but to the fact that the parties have made a different bargain.

In the argument in *Seton v. Slade*, 7 Ves. 265, it is suggested (quoting from counsel appearing in an earlier case), that if the indulgence granted in equity was not to be applicable as to dates to all land sales it would be necessary to insert in contracts a provision that time should be strictly observed notwithstanding decisions of the Court to the contrary. This formula was not