

and purchaser. Equity always allowed a vendor to shew the non-payment of the consideration notwithstanding the receipt. Under this enactment, the receipt is a discharge only if the money has been paid; and it is still open to the vendor to shew, as against his purchaser, that the money has not been paid, notwithstanding the receipt. In other words, as between vendor and purchaser, if the money has been paid the embodied receipt is a discharge to the purchaser; if it has not been paid the enactment does not operate to make the receipt a good discharge.

It is as against a subsequent purchaser only that this section becomes of real importance.

4. *Purchase for value without notice—Embodied receipt.*—By sec. 7 of the same Act it is provided that a receipt in the body of a conveyance "shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof."

The conditions necessary for the application of this section are that there should be a receipt in the conveyance, and no notice to the purchaser that the consideration has not been paid wholly or in part. Under these circumstances the receipt is "sufficient" evidence of the payment of the whole.

"Sufficient evidence" in recitals under the Vendor and Purchaser Act, R.S.O. ch. 122, means *prima facie* evidence only of the facts recited, because it is qualified by the phrase "except in so far as they are proved to be inaccurate."

Under the present enactment, sufficient evidence is interpreted to mean conclusive evidence.

In *Jones v. McGrath*, 16 O.R. 617, such a receipt was held to be conclusive, in favour of a purchaser who had no notice that the consideration mentioned in the deed had not been paid. Ferguson, J., delivering the judgment of a Divisional Court, said (p. 623) that the purchaser is "by law authorized to deal on the footing of that consideration having been paid upon the execution of the conveyance." And he further remarked that, if the receipt was sufficient evidence at the time he was paying away his money, it should not be held to be insufficient evidence in his favour of the same fact at any subsequent time when it is out of his power to regain his former position.

In *Lloyds Bank v. Bullock*, [1896] 2 Ch. 192, a trustee, entitled to sell, executed a conveyance containing a receipt for the purchase money to A., who deposited the deed with the plaintiffs for an advance, without having paid the trustee anything, and the plaintiffs were held to be entitled to rely on the statutory effect of the embodied receipt as proof of payment to the trustee.

*Baleman v. Hunt*, [1904] 2 K.B. 530, was very like the principal case. The defendants applied to a solicitor for a loan, and executed a mortgage containing a receipt to the solicitor's clerk. The full amount of the loan was not advanced. The solicitor's clerk subsequently, at the instance of the solicitor, assigned the mortgage to him, and he made a sub-mortgage thereof to the plaintiff's testator. It was held that the plaintiffs were entitled to