1854. Fuller v. Richmond

present case than in the one then under the consideration of the Court of Queen's Bench.

But, though it were clear that the property in these logs did not vest in the plaintiff, still the marking them in the way detailed in the evidence was, under the circumstances of the case, an appropriation of them to the plaintiff's use; and, assuming them to be of peculiar value, entitled the plaintiff to come here for specific delivery. There can be no doubt that when chattels have a peculiar value, and in other cases, they may be so appropriated as to entitle a vendee to come here for specific performance, although the property has not vested at law; and this court in such cases protects the equitable title of the vendee against the vendor or those claiming the legal title under him *(a)*. Now here the defendants marked the logs in question with the plaintiff's name. That was a declaration that these were the logs upon which the plaintiff had already paid large sums, and as to which he was about to be called upon to make further advances. He was called on for further advances, and upon the faith of that declaration did pay large sums for the transport of these very logs to the place of delivery. But it is said that all that was a mere voluntary appropriation by the defendants, which they were at liberty at any moment to recall. I cannot accede to that. It was a deliberate declaration, on the faith of which the plaintiff advanced his money, and which the defendants are bound to make good *(b)*.

Judgment.

Pooley v. *Budd* *(c)* was much relied on by the learned counsel for the defendant; but the chattles there were not of any peculiar value, and the case, therefore, is not analogous. In another point of view, however, it is an authority for the plaintiff. For it is

(*a*) Langton v. Horton, Hare 549.
(*b*) Hooper v. Nicholson, 4 M. & C. 179; Hammersly v. The Baron de Biel, 12 C. & F. 62; Pulsford v. Richards, 17 Beav. 87.
(*c*) 14 Beav. 34.