

was a spoliation of the land and to be enjoined against at the instance of the vendor. *A fortiori* there was no right to remove gravel after default had been made in payment. Default was made and the vendor exercised his right under the terms of the contract, cancelling the contract and forfeiting all payments already made. This was the situation when this action was begun; the purchaser offered to pay the amount in default, but claimed his right to go on excavating. At this point of difference the plaintiff could well refuse the tender and move for an injunction.

When the pleadings were put in the situation was changed by the purchaser offering to pay not only what was in default, but the whole amount of the purchase money, \$661.50, and paying it into Court.

He asked to be relieved from the forfeiture and cancellation upon such terms as to the Court might seem meet. Had the matter stayed at that point, the defendant would have been reinstated in his contract, but would have been enjoined against any removal of the gravel or other disturbance of the lot. He is entitled now to be relieved from the forfeiture and thereupon to pay in full for the lot, of which he will then become the owner, with all the rights and privileges of an owner, except so far as restricted by the covenants stipulated for in the agreement and to be contained in the conveyance. The plaintiff asks for a great many conditions to be imposed upon the defendant which are far beyond any term of the contract express or implied. The maxim is invoked that he who seeks equity must do equity. The defendant is relieved from this forfeiture and as a term of relief he should be required to fence his lot and to build his house with main floor on the street level and to stop the removal of any more gravel. This would be giving the plaintiff a different contract from the one he entered into and the maxim, elastic though it be, does not extend to matters which are not of equitable import, but savour rather of arbitrary terms which would interfere with the rights of the litigant. Whether a man shall fence his land or not depends upon himself or it may be his neighbour, under the statute respecting boundary fences. Whether he shall build his house in a particular way depends upon his own taste—in a contract such as this where no word is said about the building except that it shall cost not less than \$1,000. The only equity that appears appli-