

William Hussey for his life and afterwards in trust "for his heir at law absolutely." The question was whether the rule in Shelley's case was applicable so as to give William Hussey the fee simple. Lawrence, J., was of the opinion that it did not apply, but that the case was within the exception established by Archer's case (1597), 1 Rep. 66b, and therefore that William took only an equitable estate for life and his heir at law took by purchase an equitable estate in fee simple.

Landlord and tenant—Covenant not to assign without consent—
Covenant not to withhold consent unreasonably—Company—
Voluntary liquidation reconstruction—Assignment to reconstituted company—Refusal of consent.

Ideal Film Renting Co. v. Nielsen (1921), 1 Ch. 575. This was an action for a declaration that the plaintiffs, who were under-lessees of the defendant, were entitled to assign the under leases under which they held without the consent of the defendant in the following circumstances. The under leases contained a covenant on the part of the plaintiffs not to assign without the consent of the defendant and also a covenant by the defendant that he would not withhold his consent unreasonably. The plaintiffs carried on a film producing business, but for want of the necessary capital with a view to a reorganization on a larger scale went into voluntary liquidation and a new company with a largely increased capital fully paid up was formed, to which the liquidator of the plaintiff company proposed to assign the under leases—to which the defendant refused to consent on the ground that it was a new company and had done no business. Eve, J., who tried the action, held this to be no reasonable ground for refusal, and the fact that the qualification of the lessees' covenant taking the shape of an express covenant by the lessor did not put the lessee in any worse position than if there had been an express qualification of his own covenant, but gave him further remedy against the lessor for breach of his covenant. The learned Judge therefore held that in the circumstances the plaintiff was entitled to make the proposed assignment of the leases without the consent of the lessor.