

of his mother, and therefore the applicant was entitled to the grant in preference to the representatives of the deceased child and widow.

MERGER — INTENTION — EVIDENCE — SUBSEQUENT DEALINGS WITH PROPERTY.

In re Fletcher, Reading v. Fletcher (1917) 1 Ch. 339. This was an appeal from the decision of Astbury, J. (1917), 1 Ch. 147 (noted ante p. 182), and the Court of Appeal (Lord Cozens-Hardy, M.R., Warrington, L.J., and Lawrence, J.), have reversed his decision. The case really turns on a point of evidence, the Court below being of the opinion that evidence of an intention against merger must be concurrent with the transaction which would operate as a merger but for such opposite intention, therefore that a subsequent dealing with the property on the basis of there being no merger, was not sufficient to prevent a merger. The Court of Appeal on the other hand held that the intention not to create a merger may be established by the subsequent dealings with the property. In this case it may be remembered that a leasehold term, and the reversion, became vested in the same person, and nine months subsequently the term was assigned by the transferee as a still subsisting term, and it was held that this was sufficient evidence of the intention not to create a merger.

VENDOR AND PURCHASER—OPEN CONTRACT TO PURCHASE LAND—SPECIFIC PERFORMANCE—INQUIRY AS TO TITLE—NOTICE TO PURCHASER OF INCURABLE DEFECTS PRIOR TO CONTRACT—EVIDENCE.

Alderdale Estate Co. v. McGrory (1917) 1 Ch. 414. This was an action for specific performance, in which judgment had been pronounced for specific performance in case a good title could be made by the plaintiffs, and a reference as to title was directed. On the reference the defendant objected (1) that there was a public right of way across the land; (2) that there was a public sewer under it, and (3) that the vendors had no title to the sub-jacent minerals. The plaintiffs offered evidence to prove that the defendant, prior to the contract, had actual knowledge of all these defects. The Vice-Chancellor of Lancaster held that such evidence was inadmissible, but the Court of Appeal (Lord Cozens-Hardy, M.R., Warrington, L.J., and Lawrence, J.), held that it was.