

[The object of the bill filed in this case was to procure the specific performance of an agreement entered into on the 8th July, 1844, between the defendant, Thomas B. Watts, of Baltimore county, and Thomas Petherick, an unnaturalized foreigner, then residing in Philadelphia. By the terms of the agreement Watts was to permit Petherick to explore and work certain copper mines, on what he represented to be his farm, reserving to himself a certain portion of the profits; and Petherick was, before a certain day, to "commence proper operations for ascertaining by explorations the mineral prospects on the said farm." On the 22d December, 1844, Petherick disposed of his interest under the agreement to the complainant Isaac Tyson, Jr., who afterwards filed this bill for the specific performance thereof; alleging, that Petherick at the time the agreement was executed, thought Watts was possessed of an unincumbered fee simple interest in said property, but that he afterwards found that he only had the reversion after the termination of the life estate of his mother, and that this reversionary interest was in mortgage; that Petherick, though disappointed at this information, still expected such title as Watts was able to give, and had afterwards conveyed his interest to the complainant, who with the same expectation, and in good faith, purchased the same, and demanded of Watts the privilege of mining to the extent of said Watts' interest in the property—which had been refused. The defences taken by the defendant were—*laches* on the part of Petherick in not complying with the terms of the agreement by the time specified; the incompetency of Petherick, an unnaturalized foreigner, to receive, or transfer a title to the land, or the mining privilege aforesaid; the surrender to the defendant of his rights under the contract, previous to the assignment to the complainant; and the want of *mutuality* in the agreement.

The case having been argued, the Chancellor delivered his opinion as follows :]