

the rule is different at law and in equity, and at law is stricter in England than here. The leading case is *Goss v. Lord Nugent* *supra*.⁹² There the plaintiff agreed in writing to sell to the defendant several lots of land, and to make a good title to them. A deposit was paid, and it was afterwards discovered that a good title could not be made to one of the lots; on which it was verbally agreed, that the purchaser should waive the title as to that lot, and possession of the whole was delivered to him. The vendor brought an action for the residue of the purchase money, stating in his declaration that he had agreed to deduce a good title to all the lots except one, and that the purchaser had discharged him from making it out as to that one, and had waived any right to require it. The Court, after observing that it might be said by the plaintiff that the same land is to be conveyed, there is to be the same extent of interest in the land, it is to be conveyed at the same time, and the same price is to be paid, and that, as to the matter of title, it was only the waiver of a collateral point, went on to say, "that the object of the Statute was to exclude all oral evidence as to contracts for the sale of land, and that any contract which is sought to be enforced must be proved in writing only. In the present case, the written contract is not that which is sought to be enforced, it is a new contract which the parties have entered into, and that new contract is to be proved partly by the former written agreement and **543** *partly by the new verbal agreement; the present contract is therefore not a contract entirely in writing; and as to the title being collateral to the land, the title appears to us to be a most essential part of the contract, for, if there be not a good title, the land had in some cases better not be conveyed at all; but our opinion is not formed upon the stipulation about the title being an essential part of the agreement, but upon the general effect and meaning of the Statute of Frauds, and that the contract now brought forward by the plaintiff is not wholly a contract in writing." In *Harvey v. Graham*, 5 A. & E. 61, there being a written agreement that the plaintiff should grant a lease to the defendants, and that the latter should take certain quantities of straw at a valuation to be made by persons named respectively by the plaintiff and defendants, or their umpire in the usual way, and the defendants having entered, it was afterwards verbally agreed that the valuation should be made by one D., and it was determined that the parties could not, by an agreement not in writing, separate into two parts the subject-matter of the original agreement, and substitute a new agreement not in writing as to the straw. In *Stowell v. Robinson*, 3 Bing. N. C. 928, it was held that the day for the completion of purchase of an interest in land could not be waived by a parol agreement; here the plaintiff was the purchaser and brought his action to recover his deposit. A verbal agreement to reduce the rent of premises leased by a contract in writing is also not enforceable, *Crowley v. Vitty*, 7 Exch. 319, nor can it be shewn by parol that the rent was to commence from a day later than that named in the writing, *Henson v. Cope*, 3 Scott, N. R. 48; though if premises are let for a term not exceeding three years by a written contract, other premises may by a verbal

⁹² See also *Vezey v. Rashleigh*, (1904) 1 Ch. 634.