ment of the whole agreement, or even parol variations, so acted upon that the original agreement could not be enforced without injury to one of the parties, clearly made out—for the Court will look at the evidence with great jealousy—is a good defence in equity, Sugden, V. & P. *supra;* Price v. Dyer, 17 Ves. Jun. 356; Robinson v. Page, 3 Russ. 114.

Same subject—In equity.—*Cases coming within the mischief of **545** Goss v. Lord Nugent are, however, relievable in equity. As observed in 1 Sugden, V. & P. 240, a purchaser is at liberty to accept a defective title if he thinks proper, and if he do so, as in that case, and is let into possession, equity will bind him by his act and compel him to complete his purchase.

In Woollam v. Hearn, 7 Ves. Jun. 211; S. C. 2 Lead. Cases in Equity, 404, it was held, that though a defendant, resisting specific performance of an agreement, may go into parol evidence to shew that by fraud the written contract does not express the real terms of the bargain,[97] a plaintiff cannot do so for the purpose of obtaining specific performance with a variation. This principle is strikingly illustrated in Marquis Townsend v. Stangroom, 6 Ves. Jun. 328, where a plaintiff in a suit for specific performance, seeking to introduce parol evidence to vary a written agreement for a lease, had his bill dismissed, but was allowed, as defendant, to introduce it in a cross-suit, brought by the other party for a specific performance of the written agreement simply. However, in Moale v. Buchanan, 11 G. & J. 314, the Court said that they could see no just reason why evidence should be admitted to rebut an equity, and not be received to enforce an equity, and there, the ground of part prformance was held sufficient to take a parol variation or reformation of a written contract out of the Statute. In one case, indeed, of an action at law, Criss v. Withers, 26 Md. 553, parol evidence was admitted to correct a mistake in a written agreement to raise a mortgage debt, and the agreement as corrected was then enforced, the case being treated as one of misrecital, and parol evidence being considered admissible to establish the identity of the subject of the contract. But this case stands by itself.

Time also may be enlarged or waived in equity by the acts of the parties, see Seton v. Slade, 7 Ves. Jun. 265; S. C. 3 Leading Cases in Equity, 429, and notes; and Reed v. Chambers *supra.*

Same subject—Cases of agency.—Parol evidence is also admissible where a contract in writing is made by an agent in his own name on behalf of an undisclosed principal, either to charge, or secure the benefit of it to the principal, Oelrichs v. Ford, 21 Md. 489, but not for the purpose of discharging the agent, though the plaintiff were aware of the agency, Higgins v. Senior, 8 M. & W. 834.[98] So proof may be given that an agree-

---

[97] Defendant in a bill for specific performance of a contract made by him to purchase land may also show by parol "circumstances outside of the contract itself" which make it inequitable to grant the relief asked. Dixon v. Dixon, 92 Md. 432.

[98] Nor is parol evidence admissible to show that the vendor gave credit to the agent exclusively and looked solely to him as purchaser, where the contract discloses the principal's name. McClernan v. Hall, 33 Md. 293.