

ment from the funds which he had represented as sufficient, and which his creditor had shewn that he was unable to render available. *Kearslake v. Morgan*, 5 T. R. 513; *King v. Baldwin*, 17 John. Rep. 384; *Hayes v. Ward*, 4 John. C. C. 123; *Eddowes v. Niell*, 4 Dall. 133; *Clark v. Young*, 1 Cran. 192; *Harris v. Johnston*, 3 Cran. 311; *Ex parte Mure*, 2 Cox, 63; *Williams v. Price*, 1 Sim. & Stu. 581. Such are the principles of equity applicable to this case: let us now review the facts.

It appears that Hole's bond was payable on the 23d September, 1786; that it was given to secure the payment of the purchase money of a certain lot of land, which was held bound for the payment of this debt, by an equitable lien; and, which lien there is strong reason to believe, continued unimpaired down to the year 1807. At May Term, 1793, of the General Court, the assignee obtained judgment against Hole on this bond; on which judgment a *ca. sa.* was issued, returnable to May Term, 1794, and there the judicial proceedings appear to have ended. Hole petitioned for the benefit of the insolvent law, in April, 1794; yet, it does not appear that he obtained a complete discharge under any insolvent law until 1802. Not even an offer has been made by the holder of this bond, given by Hole, at any time, to return it, or to transfer the judgment obtained on it to the vendee. From all these circumstances it is considered, that the vendee is entirely discharged from all responsibility for this debt of Hole's. If it has been lost, it has been owing to the laches of the vendor; and, therefore, the vendee ought not any longer to be held answerable.

The bond of William Benner, it appears, became due on the 1st of January, 1786; and he died on the 10th August, 1793. It was generally reported, that he was, shortly before his death, entirely insolvent; but that he left some personal estate, is certain. The vendor or assignee, brought suit on his bond, and obtained judgment against him, in the General Court, in May, 1793, on which a *ca. sa.* was issued, returnable to October, 1793. From *thenceforward, as to this claim, the proofs are silent. **108** There has been no offer to return this bond of Benner's, or to assign the judgment against him to the vendee. From the lapse of time and all other circumstances, it may be presumed that this debt has been satisfied; or, if not, that it has been owing to the laches of the vendor; and, therefore, in this instance, also, the vendee is entirely discharged from all further responsibility.

Upon the whole, it thus appears, that the entire amount of the purchase money has been paid, or discharged in the manner agreed upon. And here this case might be closed, were it not, that the vendor, since he entered into this contract, has made a resurvey of these tracts of land, and included contiguous vacancy; and, that the vendee claims an allowance for deficiency in quantity. These