

stroyed the lien of the judgment, and restricted the remedy of the holder of it to a claim upon the trustees.

Surely the right to assign the judgment, for which right alone the assignors were to be responsible, could not be impaired by their agreement (if they made one) to be bound by the deed. The only breach of the contract on the part of the assignors, would be the want of a title to assign, and as it seems to me, no responsibility can attach to them because of any act of theirs by which the remedies for the enforcement of the judgment may be curtailed.

Before they could be held liable upon this assignment, it must be shown that they had no title to make the assignment itself, and not that the judgment has been shorn of some of its attributes by any agreement made by the assignors.

The authority to assign is one thing, but the legal effect and operation of the judgment, when assigned, is another and entirely different thing. It might, or might not, continue a lien upon the lands embraced in the deeds, but the waiver of the lien, if it has been waived, does not touch the right of the assignors to make the assignment, to which right alone can the warranty be understood as extending; the language of the assignment being, "without recourse to me, except as to my right to assign and transfer said judgment."

If this be so, the Messrs. Tiffany are competent witnesses; and looking to their proof, there does not appear to be any ground upon which an equity against these judgments can be raised.

But, as has been already remarked, even if the depositions of these witnesses are excluded, I do not think the complainant has succeeded in the attempt to deprive the holder of these judgments of the lien created by them, by establishing those facts which, according to the opinion of the Court of Appeals, are required to be shown for that purpose, and, therefore, as to them, also, the injunction must be dissolved.

Having thus disposed of the case, so far as the injunction is concerned, it next becomes necessary to consider the questions in controversy between the complainant, and the defendant John Hanson Thomas.