complete redress in an action at law. It is by no means certain,
looking to the averments of the bill alone, that the complainant
could not have maintained an action on the covenant, but if he
could not have done so, there would seem to be no doubt that
he could have obtained relief at law, in another form of action.
The cases cited with approbation, by the Court of Appeals, in
Watchman and Bratt vs. *Crook*, 5 *Gill & Johns.*, 239, would
seem to leave no doubt upon the subject. It is there said to
be a settled rule, even in the case of deeds, that if there be a
condition precedent, and it is not performed, and the parties
proceed with the performance of other parts of the contract, al-
though the deed cannot take effect, the law will raise an implied
assumpsit. The case of *Fresh* vs. *Gibson, et al.*, 16 *Peter's
Rep.*, 327, is to the same effect. In this case the plaintiff,
William Ridgeway, strictly complied with his agreement so far
as the farm is concerned, and as to the personal property, the
defendant took possession thereof; and, therefore, there can be
no doubt, that if an action of covenant could not be supported,
because there was not a strict compliance on the part of Ridge-
way, with the entire contract on his part, yet enough was done
to raise an implied assumpsit, upon which the action of assump-
sit could be maintained. The defendant accepted the deed of
the real, and took possession of the personal property, and upon
the most obvious principles of justice, was bound to pay their
worth.

Besides these objections to a decree enforcing the lien of
the vendor in this case, there is another of much practical diffi-
culty,

The property sold consisted of real estate, valued at $6,500
  and personalty, valued at   2,211

     Making $8,711

The consideration to be paid by the defendant, in the mode
stipulated in the contract, was for this aggregate amount of
real and personal property. The bottles were valued at $5000,
and the deficiency is alleged to be $4,000 70, and this defi-
ciency is alleged to be a charge on the land. But why, it may
be asked, should the whole of this deficiency be charged upon