

he will have a right to go against the firm for the money he paid for it. That is, that the charge to his account, made with his consent in September, 1850, when he received the conveyance, must be struck out, and consequently that Kramer is interested in supporting the conveyance. It is not said that there was any agreement to this effect, and I can see no ground upon which the law would imply one. As between Clark and Griffith it is very clear, that in the absence of fraud or misrepresentation there could be no recovery against the former, even on a failure of title, the rule being that a vendor selling in good faith is not responsible for the goodness of his title beyond the extent of the covenants in his deed. *Abbott vs. Allen*, 2 *Johns. Ch. Rep.*, 523; *Gouverneur vs. Elmendorf*, 5 *ibid.*, 79. In this deed there are no covenants, and there is no pretence that any fraud or misrepresentation was practised by Clark upon Griffith. If there is any fraud in the case (of which I see no evidence) it is upon the creditors of Clark, in which Griffith was a participant, and for that surely he can have no remedy.

But if there could be no recovery against Clark on a failure of title, upon what principle can Griffith be permitted to have recourse to the firm of Kramer, Mantz & Company for his money, if the deed to him is annulled? They certainly have not engaged to indemnify, if the title fails, and he can have no ground for going against them, except that they have together perpetrated a fraud upon the creditors of Clark, he, Griffith, being a most active party in its perpetration. This would be a strange ground for applying to a court of law or equity for relief. Kramer is no party to the cause; he is not liable for costs. The decree could not be used in evidence against him, and he could not be proceeded against by Griffith in the event of the failure of the latter, to sustain his deed, except upon grounds which would effectually close the door of the Court in his face. I regard him, therefore, as a competent witness, and being competent, he makes out a case which shows a *bona fide* purchase by Griffith, of the property in question.

I shall, therefore, dismiss the bill, but in consideration of the character in which the plaintiff sues, and thinking that