The answer, however, denies, though not in very precise and explicit terms, that the defendant knew that the purchase-money had not been paid by Hobbs at the date of the mortgage by the latter to him. But this denial, assuming it to be positive, is, I think, overcome by the evidence, which shows very clearly that Mr. Bryan did know of such non-payment, and was fully aware that his mortgages were subordinate to the claim of the vendor for the purchase-money. The depositions of Grason and Hobbs are conclusive upon this point, and though the competency of the latter has been excepted to upon the ground of interest, I do not see upon what principle his deposition can be excluded. The ground of the objection is that the tendency of his testimony is to make the defendant, Bryan, primarily responsible to the complainant and himself only in a secondary degree. But the object of this proceeding is not to make Bryan personally responsible at all, and as against him personally the complainant can have no decree. The object of the bill is to charge the land with the lien of the vendor, and though this might relieve the witness from the claim of the complainant for the purchase-money, it would leave him exposed to the prosecution of Bryan for the moneys due him, to secure the payment of which the land was mortgaged.

But, conceding the objection to the competency of the witness is well taken, there is surely enough left to subject the defendant Bryan to the consequences of notice. That there were awakening circumstances in the case, sufficient to put him upon an inquiry, is undeniable, and as remarked by the Court of Appeals in *Magruder* vs. *Peter*, 11 *G. & J.*, 243, "whatever is sufficient to put a party upon inquiry, is good notice in equity." In this case, a possession of a part of the premises was in the complainant, and that was a circumstance to put the purchaser upon the inquiry, and if he neglected to inform himself of the nature of her rights, he must take the consequences of his neglect. *Baynard* vs. *Norris et al.*, 5 *Gill*, 468, which authority also proves that the answer in this case omits an averment, indispensably necessary to the validity of