

Upon carefully comparing the bill with the answer, I am of opinion the equity is sworn away and the injunction must be dissolved, except as to the \$ 400, to be credited as of the 29th of April, 1844.

It must be assumed that the land sold is correctly described in the deed, and the answer expressly states that the defendant had held, and the complainant then (at the date of its execution) held possession according to that description, and that if he does not now so hold, it is because he has subsequently suffered other persons to encroach upon his just title, and the possession he received from the defendant.

The agreement filed with the bill stipulated for an abatement in the purchase money, in case peaceable possession could not be given of all the land sold, but there was no agreement for an abatement of the purchase money if the purchaser, after being put in quiet possession, permitted others to interfere with such possession.

The stipulation on the part of the vendor would be performed by putting the vendee in peaceable possession of the property, and this he expressly says he did do, but he was under no obligation, as I apprehend, not only to place him in possession, but to defend and maintain that possession thereafter. After being fairly placed in peaceable possession of the property, it was the business of the purchaser, and not of the vendor, to vindicate his right thereto.

Some stress is laid by the counsel of the complainant upon the circumstance that the defendant suffered the bill to remain unanswered from December, 1845, to October, 1847, which is regarded as amounting to something like an admission of the merits of the complainant's case. But the defendant, it must be remembered, is a non-resident, living in a distant state, which certainly furnishes some apology for the delay on his part, and it may be that he did not choose to answer the bill until he could come to Maryland for the purpose. His affidavit to the answer shows him to have been in this state at that time.

But if delay in the assertion of one's rights is to be availed