

MORGAN HARRIS AND ETHELDRA,  
HIS WIFE,  
vs.  
WILLIAM MORRIS.

DECEMBER TERM, 1847.

[EVIDENCE.]

Two co-heirs executed a deed of partition, in which they mutually covenanted that each should hold his part of the land free, and discharged from all title, interest, claim and demand of the other, but neither covenanted to assume the title of the other. HELD—

That one of these co-heirs is a competent witness for the other in an action brought by the latter against a third party, involving the title to a part of the estate conveyed to the plaintiff by the deed of partition.

A vendor of land selling in good faith is not responsible for the goodness of his title beyond the covenants in his deed.

[The bill in this case was filed by Morgan Harris and Etheldra his wife, to enjoin an ejectment suit brought by the defendant, William Morris, for a tract of land called "Morris Landing," and to obtain a conveyance of the legal title to the same by a decree for the specific performance of an agreement between said Morris and Samuel Chapman, the ancestor of complainant's said wife, in relation to the sale of said land.

It alleges that in 1817, Samuel Chapman, of Charles county, discovering a vacancy adjoining his lands on the Potomac river, agreed with said Morris that they together should take up the same; that the patent should issue to Morris, but the land should be held equally between them, each owning one-half thereof; that said Chapman paid \$77 27, the caution money, on the 1st of March, 1817, to the state, and the receipt of the treasurer therefor is exhibited with the bill; that in pursuance of this agreement, the land was patented to Morris, and called "Morris Landing," containing 52½ acres. That afterwards, said Chapman being about to sell all his lands on the Potomac, purchased of Morris all his interest in said tract, being one moiety thereof. That in part performance of this contract, said Chapman was put in possession of the whole tract, and remained in possession thereof from that time until his death,