

because of its not presenting a case of an equitable character, but, instead of doing so, has answered it, the court will not make a decree for relief at the final hearing. (d)

The case exhibited by this bill is, however, one of which a court of chancery may properly take cognizance. It is admitted on all hands, that the assignee of a bond takes it subject to all the equity to which the obligor is entitled, whether he has notice of that equity or not. The contingency which gave rise to this obligor's equity was of such a nature, that on its happening, he could only obtain the relief to which he was entitled in a court of equity. (e) He therefore came here and obtained relief accordingly, even against the assignee and the then holder of his bond, the intestate of the only two of these defendants who now resist his equity. After which that assignee, availing himself of the legal form of his claim, obtained a judgment at law, which this plaintiff, from the peculiarly equitable nature of his defence, was unable to prevent. I am therefore of opinion that this injunction must now be made perpetual, as well because this court should be consistent with itself, as because this plaintiff should have assured to him the full benefit of that to which he has been declared, by the decree of the 22d May 1815, to be equitably entitled.

Whereupon it is Decreed, that the injunction heretofore granted in this case be and the same is hereby made perpetual, and that the said defendants pay to the said complainant his costs, to be taxed by the register.

The defendants appealed, and the Court of Appeals affirmed the decree.

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(d) *Barker v. Dacie*, 6 Ves. 686; *Penn v. Baltimore*, 1 Ves. 446; *Brace v. Taylor*, 2 Atk. 253; *Hovenden v. Annesley*, 2 Scho. & Lefr. 638; *Utterson v. Mair*, 2 Ves. jun. 97; *Brooke v. Hewitt*, 3 Ves. 255; *Kemp v. Pryor*, 7 Ves. 245; *Piggot v. Williams*, 6 Mad. 95; *Gover v. Christie*, 2 H. & J. 67; *Taylor v. Ferguson*, 4 H. & J. 46; *Pollard v. Patterson*, 3 Hen. & Mun. 85; *Yancy v. Fenwick*, 4 Hen. & Mun. 423; *Martin v. Spier*, 1 Hayw. 370; *Hart v. Mallett*, 2 Hayw. 136; *Dickens v. Ashe*, 2 Hayw. 176.—(e) *Mole v. Smith*, 1 Jac. & Walk. 645.