those which apply to ordinary transactions, is not an isolated rule, but is a branch of a rule applicable to all transactions between man and man, in which the relation between the contracting parties is such as to destroy the equal footing on which such parties should stand (*Edwards* v. *Meyrick* 2 Hare at p. 69). The doctrine is to be found in the Civil Law, and it extends over a wide field of legal relationship. As was not denied, a solicitor is under no incapacity to purchase from his client, but "he can never support it unless he can prove that his diligence to do the best for the vendor has been as great as if he was only an attorney dealing for that vendor with a stranger." "The parties must be put so much at arm's length that they agree to take the characters of purchaser and vendor, and you must examine whether all the duties of those characters have been performed" (*Gibson* v. *Jeys*, 6 Ves. at pp. 270, 276).

Cozens-Hardy, M.R., in *Moody* v. *Cox* (116 L.T., at p. 747), citing the above authority, continues: "An attorney selling to a client, or buying from a client, is bound to disclose everything that is material or may be material to the judgment of his client before the transaction is completed." The onus is upon the solicitor to justify the sale and he must show that "the transaction was perfectly fair, that the client knew what he was doing, and that a fair price was given" (*Tomson* v. *Judge* 3 Drew at p 313, and *Wright* v. *Carter* 1903 1 Ch. at p. 61). In *McPherson* v. *Watt* 3 A.C. at p. 266, that onus is summed up in the words "the fullest information, the most disinterested counsel and the fairest price."

What is the result, on the application of the law above set out to the facts of this case? Had Mrs. Hubbard the fullest information, either when the option was sold to Humphrys or when he exercised it? Humphrys himself admits she had not. He was treating her as a stranger. He saw his error when he was reminded later of the care required in making contracts with a client, and realised as he says, that he had no legal claim to the profit on the deal. He sets out what he would have done had he been advising her as to the sale. He never told her for instance of the communication from the Plaintiff Company, nor was the name or offer of the Defendant Emory even mentioned to her. The mention of a vague "someone in America" was itself under the circumstances a very incomplete disclosure. Assuming that he had been advising her in respect of a sale to the Company, it might possibly arise whether he could as a director properly and fully advise her in the matter, but that does not concern the Court as this case comes before it.

And was a fair price given? All that was given for the option was $25. The purchase price was to be $5,500 if the option was exercised. Within three weeks it was exercised, the price payable to Humphrys being $11,200. The Plaintiff Company according to the evidence might possibly have gone up to $20,000. I cannot see how under the circumstances it can be said that $5,500 was a fair price to give. It is true that that figure was considerably more than was originally offered for the properties but no proper attempt was made by Humphrys to ascertain what was the real

value of the property. He himself says in his evidence what he would have done to obtain a fair price had he been advising Mrs. Hubbard as to the sale.

I am unable therefore to agree with counsel for the Appellant when he urges that the transaction was perfectly fair, that Mrs. Hubbard knew what she was doing, or that a fair price was paid. The facts in *Montesquieu* v. *Sandys* (18 Ves. 301) and *Edwards* v. *Meyrick* (2 Hare 60) can, in my opinion, be clearly distinguished from those in this case. The suggestion that Mrs. Hubbard received full and independent advice from Burrowes is not, as I have already stated, borne out by the evidence.

But it is urged that, on April 7th, 1919, she confirmed her previous bargain with Humphrys, and confirmed and approved of the sale by Humphrys to the Plaintiff Company. That confirmation to give in equity a title to specific performance must be strong and plain, and with knowledge of the infirmity of the contract (*Salmon* v. *Cutts* 4 De G. & S. 125). The parties must be on equal terms, with equal knowledge, and with sufficient and proper advice. There is nothing to show that, either on April 7th or when the letter of July 29th was written, Mrs. Hubbard had any knowledge of the invalidity of the agreement entered into by her. I agree with the learned trial judge that it was not until December the evidence discloses that she had this knowledge or obtained legal advice. I can find therefore no evidence that she confirmed the sale as is urged.

The question of agency was very lightly touched upon before this Court. There is no evidence that Humphrys acted as the agent of Mrs. Hubbard in the sale of the properties to the Plaintiff Company. The chairman and solicitor of the Company both deny it, as also does Humphrys himself.

On the whole case therefore in my opinion the contract between Humphrys and Mrs. Hubbard cannot stand. The contract between Humphrys and the Plaintiff Company cannot therefore be performed, and an order that the sale purporting to have been made between Mrs. Hubbard and Emory be declared null and void as against the Plaintiff Company must be refused.

I concur in the decision that the Appeal must be dismissed with costs.

LL. C. DALTON, J.
1st December 1921.