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Equity

Edgar I. King

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existed for holding the wife bound by the agreement, for it is also provided by statute¹⁵ that an action to set aside a separation agreement must be commenced within six months after the appointment of an executor or administrator. This statute contains no saving clause which tolls its operation in case of minority or other disability. It was admitted by stipulations of fact that an action to set the agreement aside was not begun within this period.

ROBERT C. BENSING

EQUITY

Of the few equity cases worthy of note during the past year most of them concerned the specific performance of real property transactions.

In *Jamison v. Lendblom*,¹ the plaintiff asked the court to specifically enforce the following provision of a lease: "That at the expiration of the within lease the lessee herein shall have the right of refusal of a new lease of said premises for a price to be agreed upon by the parties." The court recognized the holdings of earlier cases that when a lease provides for a renewal at a price to be agreed upon between the parties, the court will upon failure of one of the parties to agree fix the renewal rental. However, the court refused to apply this approach in the present case, holding instead that where a "new lease" was called for, as here, such covenant "contemplates and implies only that a new lease shall be given only for such time and upon such terms and conditions as may be agreed upon at the time by the parties."² Consequently, specific performance was denied. The court is, of course, bound by the terms of the instrument and is probably correct in its construction of the clause involved. However, from the viewpoint of a draftsman it can be asked whether the parties by the use of the above clause intended a legal consequence so different from that which would have resulted from the use of the more conventional renewal clause.

In *Alexander v. Greenfield*,³ the court considered a request by the purchaser for specific performance of a land contract. The vendor, after giving an option to this purchaser, had conveyed the land to a mentally incompetent person. Subsequently the option was exercised. There were other complicating facts, but on this point the court held that the mentally incompetent person was capable of receiving title to real property. But being mentally incompetent such person was incapable of making a valid deed so that the subsequent act of the vendor in causing the incompetent to re-

¹⁵ OHIO REV. CODE § 2131.03 (OHIO GEN. CODE § 10512-3)