

Case No. 4,063. DRAKE ET AL. V. GOODRIDGE ET AL.
[6 Blatchf. 531.]¹

Circuit Court, S. D. New York.

Aug. 11, 1809.

VENDOR AND VENDEE—DEFECTIVE TITLE—EXPENSES AND COUNSEL FEES.

Where real estate was sold at auction by a receiver, and the purchaser refused to complete the purchase, on account of an alleged defect of title, and the court made an order directing him to perfect the purchase, and the receiver then gave notice of the withdrawal of such order, and consented that it should be held void: *Held*, that the purchaser was entitled to be paid by the receiver his legal expenses, including reasonable counsel fees, incurred and paid in searching and examining the title, and in resisting the proceedings to have the purchase perfected.

[Cited in *Blackburn v. Selma R. Co.*, 3 Fed. 700.]

In equity. A receiver, in this case, sold at auction, under an order of the court, certain real estate in the city of New York, which was purchased at the sum of \$191,000, by parties who paid down ten per cent of the purchase-money, (\$19,100,) besides \$60 for auctioneer's fees. The purchasers refused to perfect the purchase on account of an alleged defect of title, but were ordered by the court to perfect it From this order an appeal to the supreme court was about to be taken, when the attorneys for the receiver gave notice of the withdrawal of the order compelling the purchasers to fulfil the purchase, and consented that such order should be held void and of no effect On these facts, the purchasers now presented a petition, praying for a return of the purchase money so paid, with interest, together with the legal expenses, including reasonable counsel fees, incurred and paid in the course of their proceedings in making the purchase.

Charles O'Connor, for petitioners.

Clarence A. Seward, for receiver.

NELSON, Circuit Justice. I perceive no valid objections to the claim, and refer the case to the clerk to ascertain, over and beyond the purchase-money paid, and the interest thereon, the amount of the legal expenses and reasonable counsel fees in searching and examining the title, and, also, in resisting the proceeding to have the purchase perfected.

¹ [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]