

## Regent v Millett (1976) 133 CLR 679

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### Facts

- Mr and Mrs Regent bought a house in 1969.
- They sold this house, via an oral agreement, to their daughter and son-in-law: the Milletts.
- The Milletts had to pay mortgage instalments and pay a "deposit" of \$1000.
- The Milletts possessed the house in 1970 and began making mortgage payments.
- The Milletts lived in this house and treated it as their own. This included making repairs to the house. The Regents knew that this was occurring.
- In 1972, expecting a second child, the Milletts wished to renovate the house but needed funds. The Regents and Milletts approached the bank with the view of getting a loan for the Milletts. The bank said that the house should be transferred to the Milletts.
- The Regents refused to transfer the house. The Milletts claimed specific performance while the Regents tried to rely on the fact that the contract was oral, and not written as legislatively required.

### Issues

- Could the Milletts claim part performance?

### Held

- Gibbs J concluded that the Milletts had enough grounds for part performance.
- The Court held that taking possession itself was sufficient for part performance; the possession of the house was "unequivocally referable to some such contract as that alleged".
- While taking possession of the house was not required under the contract, the Court held that if the requirements of part performance should have been done in compliance with requirement of the contract, the utility of the part performance doctrine would be "reduced to vanishing point".

### Quotes

"... when one of two contracting parties has been induced, or allowed by the other to alter his position on the faith of the contract, as for instance by taking possession of land, and expending money in building or other like acts, there it would be a fraud in the other party to set up the legal invalidity of the contract on the faith of which he induced, or allowed, the person contracting with him to act, and expend his money."

(Gibbs CJ [quoting Lord Cranworth in *Caton v Caton*] at page 498)

### Full Text

The full text is available here: <https://jade.io/summary/mnc/1976/HCA/40>

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