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from committing a breach of an express or implied negative undertaking because the contract of employment is still in being (as the repudiation of the employee in refusing to work has not been accepted by the employer).

This is because Section 54 of the Specific Relief Act 1950 states: "Where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstances that the court is unable to compel specific performance of the affirmative agreement shall not

preclude it from granting an injunction to perform the negative agreement".

However, this right to apply for an injunction is subject to a proviso that the applicant himself has not failed to perform his obligations under the contract. The existence of this proviso clearly contemplates that the contract is subsisting.

If it were the law that a contract could be terminated merely by the repudiation by one party without acceptance by the other, then because the contract had come to an end, there would not remain obligations under the contract to

be performed.

Case of restraint

In *Broom (Selangor) Rubber Plantations vs R.H. Whitley*, the defendant, Whitley, entered into an agreement to serve the plaintiffs as an assistant on their rubber estate for a period of three years and eight months. Whitley unilaterally terminated the employment saying that he had been offered a much better position.

The plaintiff sought an injunction which was granted and it was said: "The plaintiffs have performed the con-

tract so far as it is binding on them. The defendant threatens to break his affirmative agreement with them. I find that there is on the part of the defendant an implied negative agreement, viz not to enter the service of any other employer until the expiration of his period of service with the plaintiffs until the end of the contract period."

It will be seen that whether an employee can be restrained from working elsewhere will depend on the terms of the contract. It also involves a consideration of the manner in which the employment contract is brought to an end.

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