

No 54.

and absolutely denuded. It was *replied*, That albeit reversions were *stricti juris*, yet that was only interpreted where the case is betwixt the disponent and the receiver; but, in this case, the question being upon a prior creditor of the father's to the disposition made to him, if upon reversion, and the person who received the disposition and granted the reversion in favours of his apparent heirs only, that reversions cannot militate against the prior creditors; but they ought to have liberty to redeem, as if it had been granted to the father, otherwise they might be totally secluded from their just debt, against which they have a remedy by the act of Parliament 1621, King James VIth. It was *duplied*, That, by the act of Parliament cited, and all practiques, remedy is only granted to prior creditors, where fraudulent dispositions are made, but, in this case, it being offered to be instructed, that the lands were purchased for a just debt and adequate price, to the worth of the lands, no prior creditor, unless upon inhibition, can have any remedy in law; otherwise it would obstruct all commerce and security from those who *bona fide* may make a purchase for a just price; and the reversion being only granted out of favour, not to the disponent, but to the heirs-male of his own body, upon special consideration, unless there had been an heir-male, and a comprising led against him at the instance of the father's creditors, in which case, he would be obliged to fulfil the father's condition of the reversion, viz. both to pay all expenses of building and melioration of the lands, they could never redeem, because their comprising could give them no more right than the person had from whom they comprised. THE LORDS did seriously consider this case, and found, in the *first* place, that the reversion being taken by his father to his apparent heir, albeit he had none, yet they did sustain the declarator at the instance of prior creditors, that the same was *comprisable* by them for their just debt; but, in the *second* place, they found, that if the buyer of the land did pay a full and adequate price for the land, which was never affected by any inhibition against the father, that in reason and law it could not be taken away from him so as to deprive him of all the expenses of reparation; and therefore they ordained a conjunct probation, as to the worth of the lands the time of the bargain, and if the price given therefor was a full and adequate price.

Gosford, MS. No 931. p. 508.

* * Dirlton's report of this case is No 116. p. 1011., *voce* BANKRUPT.

1677. January 12. CREDITORS of WAMPRELY *against* LD CALDERHALL.

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It being alleged by a donatar of escheat, that a sum was become moveable by requisition, in this unfavourable case the LORDS found the requisition null for not bearing the production of a procuratory.

Fol. Dic. v. 2. p. 323. Stair. Dirlton. Gosford.

* * This case is No 16. p. 8340. *voce* LITIGATIONS.