

1688. July 3.

BAIRDY against HENDERSON.

No 92.

ONE Brown having by a minute of sale obliged himself to dispone a tene-
ment to Henderson, and having upon the 16th July disponed the same for one-
rous causes to Bairdy, who was a communer at the bargain with Henderson ;
and upon the same day Henderson having signed an inhibition against Brown
upon the minute, which was executed the 17th day, he raised reduction of the
disposition to Bairdy *ex capite inhibitionis*, in so far as his inhibition, which was
inchoate upon the 17th day, could not be prevented by Bairdy, who was wit-
ness to the first minute, and Brown being guilty of making double alienations,
Bairdy, who was *particeps fraudis*, ought not *lucrari* thereby.

Answered, Purchasers by way of commerce are only obliged to notice what
is in the registers, and are not put *in mala fide* by private knowledge, though
inchoate diligence be effectual to hinder gratification.

Replied, An executed inhibition is sufficient to reduce rights granted between
the execution and registration ; February 12. 1675, Cruickshanks against Watt,
No 90. p. 8393.

THE LORDS found that the inchoate diligence by signing the letters and pri-
vate knowledge, does not stop commerce, though it would hinder gratification.

Fol. Dic. v. 1. p. 559. Harcarse, (INHIBITION.) No 641. p. 176.

To whom competent to make the objection of Litigiosity. See JUS TERTIL.

See APPENDIX.