

July 20, 1814.

MARRIAGE.

besides, considering what he had declared respecting his marriage in 1770, in which he was so materially contradicted by Paterson, a declaration of his was not much to be relied on. Then the matter rested on the cohabitation and repute at Balbougie; and it appeared that some thought they were married, and some thought they were not. But the repute of marriage, as he had already stated, must be general; the conduct of the parties must be such as to make almost every one infer that they were married. Here the connexion had been long illicit, and it did not appear when it became lawful. There was not repute sufficient to form presumptive evidence of a marriage.

Judgment of reversal.

“That the facts and circumstances, &c. proven  
“were not relevant to infer marriage—and remit.”

Agents for Appellants, SPOTTISWOODE and ROBERTSON.  
Agent for Respondents, CAMPBELL.

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## IRELAND.

### APPEAL FROM THE COURT OF EXCHEQUER.

MEREDITHS—*Appellants.*

SAUNDERS—*Respondent.*

June 30, July 27, 1814.

CONTRACT.—  
USURY.—IN-  
ADEQUACY OF  
PRICE.

MEREDITH, being in embarrassed circumstances, in consideration of a loan of 900*l.* makes a lease to Denny, with covenant for perpetual renewal, of lands of the yearly value of from 400*l.* to 500*l.* at a rent of 150*l.* subject to a private

parole agreement, that Meredith might redeem within two years, on payment of 1300*l.* Saunders, knowing the circumstances, with the consent of Meredith, purchases the interest of Dennahy, to whom Saunders pays the 1300*l.* Saunders afterwards purchases the whole interest of Meredith, in these and other lands, for the additional sum of 3706*l.*—the clear profit rent at which the lands were let in the year following being 600*l.* a-year besides other advantages. Meredith having consented to the purchase from Dennahy—having had opportunities of being perfectly acquainted with the value of the lands—having acted deliberately—and no fraud appearing—held by the House of Lords, affirming a decree of the Irish Exchequer, that there was no ground for setting aside the transaction.

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*Dicente* Lord Eldon, that though the decision in *Mortlock v. Buller* (10 Ves. 292) had been questioned, if he were to decide the case again, he should decide exactly in the same way as before.

**T**HE Merediths, who held the lands of Armaghmore and Dysart, county of Kerry, under a lease for lives renewable for ever, granted in 1738 by Richard Meredith, the then proprietor, to his second son, William Meredith, being in 1796 much distressed for money, obtained a loan of 600*l.* from one Dennahy, upon covenant to grant to Dennahy a lease for three lives, or 41 years, of the lands of Armaghmore, at the yearly rent of 150*l.* to commence from March 25, 1798; or on that day to pay Dennahy 750*l.* with interest from the date of the agreement. The annual value of the lands was much more than 150*l.* and it was contended that the transaction was usurious. At a subsequent period in the same year, Dennahy advanced to the Merediths a farther sum of 300*l.*; and in consideration of the whole sum of 900*l.* he obtained a

Facts and circumstances.

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Lease, which  
was stated in  
argument to  
be founded on  
an usurious  
consideration.

Sale of lands  
by Appellant  
to Respond-  
ent—ques-  
tioned for in-  
adequacy of  
price.

lease of these lands for three lives, with covenant for perpetual renewal, at the rent of 113*l.* 15*s.* for the first two years, and 150*l.* for ever after, subject to a private parole agreement, that the Merediths should be entitled to redeem on payment of 1300*l.* to Dennahy on March 25, 1798.

The Respondent, Saunders,—who was uncle to William Meredith, the Appellant chiefly interested in the lands, and who appeared to have been apprized of the situation of the Meredith family, and the nature of the transaction with Dennahy, at which it was in evidence that he expressed great indignation,—with the full knowledge and concurrence of the Merediths, purchased the interest of Dennahy, and paid the 1300*l.* He afterwards purchased the whole of the interest in the lands of Armaghmore and Dysart, under the lease of 1738, for an additional sum of 3706*l.*; though, in the following year, the lands were let (as was stated on oath) so as to yield a clear profit to the Respondent of 600*l.* a-year, with other advantages. William Meredith had however consulted Mr. Justice Day (then a practising Barrister) and the Rt. Hon. Maurice Fitzgerald on the subject of this sale; but from their evidence, it appeared that they knew nothing about the value of the lands, and hardly remembered any thing about the transaction.

The Appellant, W. Meredith, alleged that he had been induced to act as he did from the opinion entertained by himself and others, that the Respondent—being supposed to be a man not likely to marry—would make him his heir; and there was evidence that the Respondent himself had made

such a declaration. But though the Respondent some time after the transaction did marry, the Appellant, W. Meredith, made no attempt whatever at that time to impeach the fairness of the transaction, and never then stated that he was dissatisfied with it. The lands at that time became the subject of a marriage settlement.

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The Appellants afterwards refused to renew; and the Respondent filed his bill in the Exchequer, in the nature of a bill for specific performance. The Appellants answered, stating the above circumstances; and witnesses being examined, and the cause being heard, the Court decreed performance pursuant to the prayer of the bill; and from this decree the Appellants lodged their Appeal.

Bill for specific performance, filed Feb. 28, 1804.

Decree for performance, Nov. 1808.

Several grounds were mentioned for impeaching the transaction; but the only grounds on which any great stress was laid in the House of Lords were,—1st, That the whole transaction was founded on the usurious contract with Dennahey, and was therefore void, whether the Respondent had, or had not, notice of that contract; and, 2d, (which was chiefly relied on,) The consideration was grossly inadequate. To the first point it was answered, that there was no pretence for saying that the transaction, in any view of it, was usurious at law; and as to the equity of the question, Saunders did not substitute himself in the place of Dennahey, paying only the 900*l.* and interest; but purchased for 1300*l.* with the knowledge and consent of the Appellants. To the second objection it was replied, that the Appellants were perfectly acquainted with the value of the lands; that there was no confidential relation

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3 Wils. C. P.  
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292.

between the parties; that the consideration, under the circumstances, was not inadequate; and at any rate, that mere inadequacy of consideration was no ground for rescinding an agreement, no fraud appearing;—and this defence was like a bill to set aside a contract.

In the course of the argument, the case of *Mortlock v. Buller* having been mentioned, *Lord Eldon* (Chancellor) said,—“ I perceive the judgment in “ the case of *Mortlock v. Buller* has been ques- “ tioned in a decision of the present *Lord Chan- “ cellor* of Ireland. I have since looked back into “ all the circumstances of that case; and, with all “ due respect for that opinion, if I were to decide “ the case again, I should decide it exactly in the “ same way as before.”

*Romilly* and *Leach* for Appellants; *Hart* and *Bell* for Respondent.

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*Lord Eldon* (Chancellor.) This was a case depending on a great variety of circumstances. After having considered all these circumstances, and admitting that the case was one of some difficulty, he was of opinion, on the whole, that the decree ought to be affirmed.

Judgment.

Decree affirmed.

Agent for Appellants, BLANDFORD.

Agents for Respondent, NEELD and FLADGATE.