

1810.

Wood
vs
Grundy &c.

the plaintiff is entitled to recover. The defendant excepted.

3. The plaintiff then offered evidence to prove, that the lots, for which this ejectment is brought, was part of the land mentioned in the act of assembly aforesaid, (1782, *ch.* 2,) so claimed by *Howard*, and laid off into a town, and that the said lot was conveyed by *Howard* to *Didier*, and was improved by *Didier* about ten years ago, and continued in his occupation and possession until he sold it to *Brown*, who continued in possession of the lot and premises until the 22d of February 1802. The plaintiff then prayed the opinion of the court, and their direction to the jury, that if they believed the evidence on the part of the plaintiff, that then *Brown* had a legal and valid estate in the lot on the 22d of February 1802, according to the limitations in his deed. Which direction the court gave. The defendant excepted.

4. The plaintiff then prayed the opinion of the court, and their direction to the jury, that the petition, commission and assignment, under the commission of bankruptcy issued against *Brown*, (which he offered in evidence,) were competent and proper to prove the facts therein mentioned, and that if the defendant does not show title to the premises in the declaration mentioned, out of *Brown*, before and on the 22d of February 1802, that then the defendant must claim subsequent to the act of bankruptcy stated in the commission; and if the jury so find, that then the assignment of the bankrupt's effects gives title to the premises in the lessors of the plaintiff, and the plaintiff is entitled to recover. Which direction the court gave. The defendant excepted.

5. The plaintiff further prayed the opinion of the court, and their direction to the jury, that if the defendant shows no title out of the plaintiff before the 22d of February 1802, and no conveyance from him at any time since, that then the assignment under said cause of bankruptcy is evidence of title in the lessors of the plaintiff, until some title is shown out of *Brown* before or after that day. Which direction the court gave. The defendant excepted. Verdict and judgment for the plaintiff, and the defendant appealed to this court.

The cause was argued before CHASE, Ch. J. BUCHANAN, GANTT, and EARLE, J.