

Baltimore to supply the defects of both the Wills and to make an Estate in fee simple of the land therein devised to the Severall devisees therein mentioned whereupon his Lordship grants to the said Dowglass the father and his heires the said Tract of land to the uses mentioned in the said Bridget Heards Will by the premises or first part of the grant but in the Habendum says nothing of the uses aforesaid but only to have and to hold to him the said John the father his heires and Assignes for ever. All the Devisees aforesaid Except the said John Dowglass Jun^r, dyed in their Minority without any heires that have ever yet appeared Whereupon the said Lord Baltimore conceiving that the said land reverted to him by escheat not knowing then but that John Dowglas Jun^r was dead put M^r Benj^a Rozier father of the said Notley in possession thereof with a promise that he would grant it to him and his heires But the said Benj^a dyed before his Lordship's grant [186] past unto him And the said Notley his son and heir tooke possession of the said land and holds the same still by his Lordships grant

Now appears John Dowglass Jun^r pretending that he as heir to his said father the grantee aforesaid has a right to the whole notwithstanding the grant being to the uses in the said Bridgetts Will mentioned and conveys the same tract to Phillip Lynes.

Phillip Lynes under the title of the said Dowglass Jun^r Ejects Notley Rozier and upon tryall the Jury gave Verdict for him whereupon motion was made to stay the Judgment And the following reasons were offerd in stay thereof

1st The tract of land in question is no otherwise claimed by Lynes then by and under the title of John Dowglass and it appears by the Grant that he has it no otherwise then in trust and to the uses of Bridget Heards will which trust does not give him such A property therein as to be capeable of Making an absolute sale thereof as he has done to Lynes therefore the said Lynes title under the said Dowglass is naught and not Sufficient to ground an Action upon ag^t the said Rozier wherefore no Judgment ought to be entred upon the said verdict for Lynes which reason was by the provinciall Court overuled and therefore Error.

2^{dly} If the said Dowglas has any title in his own right to the said Land it can be to no more then one fourth part thereof the one half thereof being bequeathed to Wm Heard and the one half of the remaining half to Mary Yowkins and Dowglas's grant being to the uses of the Will etc. gives him at most A property to none then A fourth part of the said land therefore he cannot have Judgment upon the Verdict for the whole nor for any part in particular no Division being ever made between him and the other Legatees. And there being but an estate for life given by the will the grant to Dowglass to the uses thereof tho the word heires be put in does not enlarge the estate which was in like manner overuled and therefore Error.

For all which and other the Manifest errors in the Record and proceed-