

whatever. *Berry v. Usher*, 11 Ves. 87; *Simmons v. Gutteridge*, 13 Ves. 264; 1798, ch. 101, sub-ch. 8, s. 20. If there be several executors they may plead different pleas; each of them may put in, for himself, none other than the plea of *plene administravit*; and as such a defence does not controvert the existence of the cause of action, but merely denies a sufficiency of assets wherewith to satisfy it; if the one of such pleas should be found for and the other against him who pleads it, yet the plaintiff may have relief against that one executor, although his suit must be dismissed as against the other. 2 Will. Ex'rs, 1218. But if, in addition to such a plea, one of the executors should plead a release, or rest his defence upon any matter going to the whole cause of action, and it should be found for him, the plaintiff must be barred, and can have no relief whatever; although the other executor had even acknowledged the action, or made default; because it would appear upon the whole record, that the plaintiff had in fact no cause of action. *Elwell v. Quash*, 1 Stra. 20; 3 Bac. Abr. 33; 2 Will. Ex'rs, 1193.

The wife, executrix to her husband, married a second husband. A bill is exhibited against them to discover the trust; the husband and wife disagree in the matter, and put in severally their answers; the husband denied the trust, but the wife confessed it. The cause proceeded to hearing, and the plaintiff proved the trust only by one witness which the plaintiff insisted on with the wife's confession, to be sufficient; the matter being but in that wherein she was concerned as executrix. But the bill was dismissed, *quia* the wife's answer shall not bind the husband. *Anonymous*, 2 Ca. Cha. 39. But upon a bill brought against husband and wife for lands held by them in her right, the husband having made default, the wife got an order to answer separately; and thereupon answered, setting forth a title to herself \* of the inheritance. It was held, that there could be no decree **261** against her; but the bill was taken *pro confesso* against the husband only, and he was ordered to account for all the profits of the land received since the coverture, and the profits which should be received during the coverture, &c. *Ward v. Meath*, 2 Ca. Cha. 173.

Whence it appears, that in equity as at law, where the defence made by any one defendant extends only so far as to cover nothing more than the interest of him by whom it is made, the plaintiff may yet have relief, if he establishes his claim against the other defendants; but that where the defence made by one defendant goes to the whole cause of complaint, and the plaintiff fails to establish his case in opposition to such defence, he cannot be relieved in any way whatever, although his claim should be confessed by the other defendants.