

Hence, it appears to have been the decided opinion of Lord Hardwicke, long before our Revolution, not only that a purchaser, after the sale had been ratified, might be compelled to pay the purchase money by process of attachment for contempt; but that there was, in fact, no other remedy; since it is clear, that no action at common law, could be maintained against the purchaser, grounded merely on the order in Chancery confirming the sale. And this was cited by Lord Eldon, in 1805, with approbation, as being entirely sound in its principles. *Ex parte Minor*, 11 *Ves.* 562; *Casamajor v. Strode*, 1 *Cond. Cha. Rep.* 195; *Bligh v. Darnley*, 2 *P. Will.* 620; *Carpenter v. Thornton*, 5 *Com. Law Rep.* 225.

A doubt was expressed upon this subject, in a case on the equity side of the Court of Exchequer, in the year 1793, when, on the Court's being referred to a similar proceeding in Chancery, which had taken place in the year 1787, an order was made, after the confirmation of the sale, that the purchaser should be compelled to complete his purchase. *Cunningham v. Williams*, 2 *Anstr.* 344; *S. C.* 2 *Fowl. Exch. Pra.* 268, 272. But in the year 1808, the instances in which the Court of Chancery had exercised such a power, seems to have been again almost forgotten. *Anonymous*, 2 *Ves. Jun.* 336. The Chancellor expressed \* some doubt, but on being referred to a case which arose in the year 1791, he 651 made the order, that the purchaser should pay his purchase money within a fortnight, or stand committed; observing, that the principle required it equally in the case of a purchaser, who could not be permitted to baffle the Court, and disobey an order, more than any other person. *Lansdown v. Elderton*, 14 *Ves.* 512; *Ex parte Cranmer*, 2 *Collinson on Idiots*, 705.

From these authorities it appears to have been the settled law of the English Court of Chancery long before, and ever since our Revolution, that on a purchaser's failing to comply, the Court would, on application, after the ratification of the sale, compel him to complete his purchase by process of attachment for contempt.

But it has happened in this State as in England, that the evidence of the existence of this power, so important and so necessary to the jurisdiction of the Court of Chancery, has been many times almost forgotten, and the propriety of the power itself has been as often doubted or opposed.<sup>(l)</sup> There is no instance in this State of a deposit ever having been exacted of a bidder, before the ratification of the sale; and therefore, if a purchaser cannot be coerced by process of attachment, this Court has no hold of him; nor can it ever take hold of him, in any manner, so as to prevent him from making a mere sport of its decrees.

(l) It is true, that the law sometimes sleeps, and judgment wakens it; for, *dormit aliquando lex moritur nunquam.*—*Mary Portington's Case*, 10 Co. 42.