

**41** \*heir, or the executor or administrator of the deceased debtor. So that if the executor has assets, and the heir also has assets, it is still at the election of the creditor to have his debt of either the one or the other as he pleases. In the suit against the heir it is not necessary to allege, that the executor has no assets; for even if he has a sufficiency of assets, it is no defence for the heir. On the plaintiff's establishing his claim he may have judgment, that all the lands so descended be extended, at an estimated annual value, and delivered to him to hold until his debt is paid. And when the heir has paid debts to the value of the land he may hold it discharged from all other claims of the creditors of his ancestor. But in such case, if any one of the heirs be an infant the parol shall demur as to all until such minor attains his full age. This is a mode of proceeding given by the common law to a specialty creditor against the heirs of the deceased debtor, by which such a creditor's title to obtain satisfaction from the property of the deceased is thus extended indiscriminately over the whole of his real and personal estate. *Davy v. Pepys*, *Plow.* 439; *Luson's Case*, *Dyer*, 81, *pl.* 62; *Quarles v. Capell*, *Dyer*, 204, *p.* 2; *Sir William Harbert's Case*, 3 *Co.* 12; *Davis v. Churchman*, 3 *Ler.* 189; *Haight v. Langham*, 3 *Ler.* 303, 304; *Buckley v. Nightingale*, 1 *Strange*, 665; *Smith v. Angel*, 7 *Mod.* 41; *Stileman v. Ashdown*, *Amb.* 16; *Kinaston v. Clark*, 2 *Atk.* 205; *Bac. Abr. tit. Heir and Ancestor*, *F*; 2 *Hart. Ent.* 106. (e) But if the heir pays such a

(e) *ANDERSON v. RAWLINS*.—*JOWLES. C.*, 19th August, 1695.—Whereas, heretofore, that is to say, on the 13th day of November, 1694, John Anderson, of Dorchester County, planter, did exhibit his bill of complaint, in the honorable Court of Chancery, against John Rawlins, son and heir of John Rawlins of the said county, planter, deceased, thereby setting forth, that whereas, the said John Rawlins, the father, was, in his life-time, seised and possessed of a parcel of land, called The Inheritance, lying on the east side of Chesapeake Bay, and on the eastern side of Blackwater River, in Dorchester County, aforesaid, whose lines are in the said bill expressed, containing, and laid out for three hundred acres, more or less: and that the said John Rawlins, the father, did, in his life-time, to wit: about the year of our Lord 1680, for the consideration of ten thousand pounds of tobacco, to him, the said John Rawlins, well and truly paid, by the said John Anderson, the complainant, agreed to sell and convey the said three hundred acres, called The Inheritance, to the said complainant, his heirs and assigns forever. And also, that he, the said John Rawlins, would, in some short time after, by himself, or his attorney thereunto authorized and appointed, make to the said complainant a firm conveyance of the same according to law, to be acknowledged and recorded in the said County Court of Dorchester County aforesaid; but, that before the said conveyance was perfected, he, the said John Rawlins, died, leaving John Rawlins, his son and heir, an infant, under the age of twenty-one years, by reason whereof the said complainant could not have a good estate made to him of the said three hundred acres of land, till the said John Rawlins, the son, should be of full age. And whereas, John Rawlins, the son, being satisfied, that the said complainant had bought and