

when the right of minors are involved, suing by their next friend.

Being satisfied that a contract for the sale of the land was made between the parties, either in writing or by parol, and that a part of the purchase money was paid, and possession of the premises held by the vendee under the purchase, and that, therefore, the merits of the case are with the complainants, it is the duty of the court to interpose for their protection, unless some clear legal principle forbids it.

The case, as has been already remarked, is free from the objection founded upon the statute of frauds, and, I do not think, the technical objection, having reference to the frame of the bill, can so far prevail, at least at this stage of the cause, as to induce the court to dissolve the injunction.

It is very clear, I think, that the heirs at law of Simperts, the vendee, can be in no way prejudiced by the agreement between his widow and this vendor, that she would become his tenant for a part of the premises. The relation of landlord and tenant as between them, can, therefore, have no effect upon the title of the heirs to the aid of this court.

But it is said that the interposition of this court by injunction is rendered unnecessary, and, therefore, improper, by the provisions of the act of 1793, chap. 43, under which the proceeding was instituted. That the complainants may obtain ample redress, if they are entitled to retain possession of the premises, by pursuing the course pointed out by the legislature, without invoking the extraordinary powers of a court of equity.

Upon reference to the act of assembly, however, I am persuaded it will be found that these complainants, the heirs at law of Simperts, are not in a condition to avail themselves of its provisions. The proviso to the act is, "that if the said tenant in possession shall allege, that the title to the said lands," &c., "is disputed or claimed by some other person or persons whom he shall name, in virtue of a right or title accrued or happening since the commencement of said lease, by descent, deed," &c., "and if, thereupon, the person so claiming shall appear, or upon a summons," &c., "shall appear before the said justices, and