

band is entitled only to a courtesy interest in the real estate included in the settlement, or to the whole thereof, as heir to his child, to the exclusion of the heirs of his wife. This question depends upon the answer which is to be given to another, and that is, whether the child took *by descent* from the mother, or as a *purchaser* under the deed of settlement.

The general rule with reference to the contracts of infants, is stated by the Court of Appeals, in the case of *Fridge vs. The State*, use of *Kirk*, 3 G. & J., 115.

Some of their contracts, say the court, are binding, such as contracts for necessities; some are void, and others are voidable only, such as contracts that may be for the benefits of infants. But a contract that the court can see and pronounce to be to the prejudice of the infant is void; and in that case the court did pronounce a release executed by a female ward to her guardian, immediately upon her attaining the age of sixteen, upon receiving from him a note for the balance due her, absolutely void. This question came up again in the case of *Forbes vs. Forbes*, 5 Gill, 29, where the court, without deciding that a release executed by a minor under peculiar circumstances, was void or only voidable, adjudged that a second release, executed after he attained his majority, under the special circumstances of that case, and full proof of fairness and frankness in an unreserved disclosure of facts and careful examination of accounts by the friends and advisers of the minor, was good, and that these circumstances would be regarded as the operating causes of the second release at the time of its execution.

It cannot be denied that the question involved in this case has been the subject of much controversy in the English Chancery, and that conflicting opinions in regard to it, have been entertained and expressed by the eminent men who have presided over that court.

Mr. Athcrly, in his treatise on marriage settlements, commencing at page 29, after a review of most of the cases, comes to the conclusion that the authorities in favor of an infant's being able to bind her real estate by a settlement on marriage, greatly preponderate over those the other way, though he very frankly admits that the point cannot be considered as settled.