

But, although, according to all general principles, every part of the real estate of a debtor in the hands of his heir should be held applicable to the payment of his debts; yet it seems to have been unsettled, at common law, how far estates in remainder or reversion were to be considered as assets present or future. And formerly here, as in England, a notion prevailed, that such estates could not be sold in the first instance. (z) But in equity such

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(z) *Charles v. Andrews*, 9 Mod. 151; Bac. Abr. tit. Heir and Ancestor, I; Ram. on Assets, 152, 168.

*HINDMAN v. CLAYTON*.—This was a creditor's bill, filed on the 18th of August, 1792, by James Hindman and others, against Richard E. Clayton and others, alleging that the late Solomon Clayton was indebted to the plaintiffs; that his personal estate was insufficient to pay his debts; and that his real estate descended to his children and heirs. Whereupon it was prayed that the real estate be sold, &c.

The infant defendants, answering by their guardian *ad litem*, admitted the insufficiency of the personal estate of their late father; and that he was indebted to the two plaintiffs, as they charged in their bill; (the amount claimed by one of them was, however, left blank in the bill and answer,) that their father did not die seized of the several tracts of land in the bill stated; but only of a fee in remainder, expectant upon an estate for life, &c.; that their grandmother Hannah Clayton is the tenant for life in the aforesaid lands, and is willing and agreed to join in the conveyance of the aforesaid part of a tract of land, called Neglect, for the benefit and advantage of these defendants; provided the creditors of their father Solomon Clayton will consent to wait for the balance of their claims until it can be raised out of the profits of the other lands above mentioned, which expectant estate these defendants humbly apprehend it would be greatly to their disadvantage to sell during the continuance of the particular estate.

31st January, 1794.—*HANSON, Chancellor*.—This case standing ready for decision, and being submitted on the bill, exhibits and answer, and the same, with all other proceedings, being, by the Chancellor, read and considered, and it appearing to him proper to exercise the discretion vested in him by law, in refusing the relief prayed by the bill, and that the proposal made by the defendants is fair and reasonable, and the Chancellor being satisfied of the insufficiency of the personal estate of their deceased father; and the claim of James Hindman, one of the complainants, being established to his satisfaction.

It is *Decreed*, that all the right, title and interest which hath descended from, or been devised by, the said Solomon Clayton, to the defendants in and to part of a tract of land in Queen Ann's County, called Neglect, be sold for the payment of his just debts; provided that Hannah Clayton, who appears, from the answer aforesaid, to be tenant for life thereof, shall first convey to the trustee hereafter by this decree appointed, and his heirs, all her right, title and interest therein and thereto, in trust to the intent that he shall sell the same agreeably to the directions hereof, and for the purposes herein mentioned, &c. (Peter Edmondson appointed trustee to make the sale, &c.) He shall then, provided the said Hannah Clayton shall make the said conveyance, and not otherwise, give notice by advertisement, inserted at least three weeks successively, in some convenient newspaper, and set up at convenient public places, of the time, place, manner and terms of sale; and, at the same time, and in the same manner, he shall give notice to the creditors of the said Solomon Clayton, to exhibit, within three months from the time of notice, their claims, and all the vouchers thereof, to the Chancellor.

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