

clearing it of all incumbrances, until after he became much embarrassed in his pecuniary affairs, and just before his legally avowed insolvency. I am, therefore, perfectly satisfied, that this deed of the 22d of July, 1817, must be deemed altogether fraudulent and void as against the creditors of the defendant *Alexander B. Hanna*.

These plaintiffs represent, as well those who were creditors of *Alexander B. Hanna* at the time he executed the deed of the 22d of July, 1817, as those who had become so since that time, and prior to his obtaining the benefit of the insolvent laws. Upon the principle, that an estate obtained by fraud can only be vacated by him who has the prior right; (*l*) it has been settled, as a general rule, with some few exceptions, that no creditor can have a voluntary conveyance set aside, on the ground of its having been made to his prejudice, unless he was a creditor at the time the conveyance was made. But it has also been long well established, that where a voluntary conveyance has been vacated for the benefit of those who were creditors at the time, all subsequent creditors may be let in to participate of the funds. (*m*)

Hence, in this case, although there are only a portion of the creditors, represented by these plaintiffs, at whose instance this bill could have been originated and sustained for vacating this deed of the 22d of July, 1817; yet on its being annulled, all the others must be allowed to come in and partake of the benefit of the decree; and the proceeds must be apportioned among them in due course of distribution, according to the provisions of the insolvent laws.

The bill also claims an account of the rents and profits of this property during the time it has been thus unlawfully withheld from these plaintiffs, under the pretext of this fraudulent conveyance. This right to rents and profits, it is evident, arises as a necessary consequence of the judgment, that this deed of the 22d of July, 1817, is void, as against the creditors represented by these plaintiffs; from whose use, the property has been unjustly withheld from the time *Alexander B. Hanna* applied for the benefit of the insolvent laws; at which time all his property vested in these plaintiffs, and ought to have been surrendered and delivered up to them

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(*l*) *Twyne's case*, 3 Co. 83.—(*m*) *Walker v. Burrows*, 1 Atk. 93; *Lush v. Wilkinson*, 5 Ves. 386 n.; *Kidney v. Coussmaker*, 12 Ves. 156 n.; *Richardson v. Smallwood*, 4 Cond. Chan. Rep. 262.