

In this case, the testator had bequeathed a certain sum of money to be invested for charitable purposes, and on a reference to the master to propose a scheme of investment, he had reported, that the money should be laid out in the purchase of certain lands. The report had been confirmed, and the object then was, to obtain a specific performance of the order confirming the master's report. As to which point, *Lord Hardwicke* is reported to have said, 'the material consideration is, whether, as circumstances now stand, considering the events and alteration of rights thereby, the court ought to carry it into execution? The general rule certainly is, that this is discretionary in the court, but will not hold in the present; for that is generally in cases, where there may be an election of two remedies, by coming here for a specific performance, or by action at law; whereas, here, there can be no remedy at law; all arising under the acts of this court, from that order amounting to a decree. So, that if this court does not carry it into execution, it cannot be at all; yet, whether other remedy or not, if there are strong and material objections against it, the court ought not to do it.'

Hence, it appears to have been the decided opinion of *Lord Hardwicke*, long before our revolution, not only that a purchaser, after the sale had been ratified, might be compelled to pay the purchase money by process of attachment for contempt; but that there was, in fact, no other remedy; since it is clear, that no action at common law, could be maintained against the purchaser, grounded merely on the order in chancery confirming the sale. And this was cited by *Lord Eldon*, in 1805, with approbation, as being entirely sound in its principles. (x)

A doubt was expressed upon this subject, in a case on the equity side of the Court of Exchequer, in the year 1793, when, on the court's being referred to a similar proceeding in chancery, which had taken place in the year 1787, an order was made, after the confirmation of the sale, that the purchaser should be compelled to complete his purchase. (y) But in the year 1808, the instances in which the Court of Chancery had exercised such a power, seems to have been again almost forgotten. (z) The Chancellor expressed

(x) *Ex parte Minor*, 11 Ves. 562; *Casamajor v. Strode*, 1 Cond. Cha. Rep. 195; *Bligh v. Darnley*, 2 P. Will, 620; *Carpenter v. Thornton*, 5 Com. Law Rep. 225.—
 (y) *Cunningham v. Williams*, 2 Anstr. 344; S. C. 2 Fowl. Exch. Pra. 268, 272.—
 (z) *Anonymous*, 2 Ves. jun. 336.