

ancestor, then he may, by bill in equity, upon the ground, that the personal estate is there considered as the primary and natural fund for the payment of debts, obtain reimbursement from the personal estate, if any, in the hands of the executor or administrator. (q)

If however, a specialty creditor to whom the heir is bound, instead of suing at law, files his bill in equity to obtain satisfaction, by having the whole estate of his deceased debtor, real and personal, administered in equity for the benefit of himself and all other creditors; and, for that purpose, as he must, calls before the court the executor or administrator with the heir and devisee, if any, of the deceased, the court will, having both funds under its immediate and absolute control, without any material delay or injury to the creditors, order the personal estate, as the primary and natural fund, to be first applied, as far as it will go, in satisfaction of the debts; and thus, at once, place the burthen where it ought to rest; without allowing the creditors to enforce payment from the heir, as at law; and then leave him to seek reimbursement from the personal estate. (r) But if any one of the heirs, or, according to

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the said land, did therefore assure the said complainant, that as soon as he came to age he would confirm the said land to the said complainant and his heirs forever, as aforesaid. And whereas, the said John Rawlins being since arrived to full age, hath been requested by the complainant to seal and execute a good and legal conveyance of the said land to the said complainant, and doth not absolutely deny to do the same; but is willing to do it to the said complainant and his heirs forever; provided, he may be saved harmless from his father's creditors. And forasmuch as the said complainant hath therefore prayed for the decree of this honourable court to force the said John Rawlins to complete the said conveyance to the complainant. And forasmuch as the said John Rawlins by his letter directed to the register of this honourable court, here in court produced and dated August the 13th, 1695, has declared, that he owns the said three hundred acres to have been bought from his father John Rawlins, deceased, by the complainant, and that he is content, that a decree of this honourable court shall pass, that the said John Anderson may have the said land to him and his heirs forever.

This honourable court upon hearing the whole matter in the bill and letter aforesaid contained, do order, adjudge and decree, that the said John Rawlins shall execute to the said John Anderson, such deed and conveyance of the said three hundred acres of land, as the said counsel of the said complainant shall devise or direct for the confirming the same to him and his heirs forever, with general warranty. And in the mean time the said complainant to hold and enjoy the said land free from all incumbrances whatsoever, to him and his heirs forever, according to the original contract made between the said complainant and the father of the said John Rawlins, as in the bill is mentioned.—*Chancery Proceedings, lib. P. C. fol. 305.*

(q) *Howell v. Price*, Prec. Cha. 477; *S. C. Gilb. Rep.* 106; *Armitage v. Metcalf*, 1 Cha. Ca. 74; *Anonymous*, 2 Cha. Ca. 4; *Popley v. Popley*, 2 Cha. Ca. 84; *Wolstan v. Aston*, Hard. 511; *Edwards v. Warwick*, 2 P. Will. 175; *Bootle v. Blundell*, 19 Ves. 518.—(r) *Plunket v. Penon*, 2 Atk. 51; *Madox v. Jackson*, 3 Atk. 406.