

Deed of a Minor having curators void ^{if} without ^{the} consent of the Curators.

Some of those Deeds against which a Minor is relieved are ipso jure null by Exception; others are quarrelable only in the Way of Reduction.

Deeds of Minors which law disallows and annuls by Exception, are these following: 1. A Tutor's Alienation of his Pupil's Herotage or immovable goods without a Warrant of the Lords of Session interposed causa cognita, is ipso jure null: so as the Pupil may even after the Expiring of the Annuitiles subsequent to his Majority, vindicate the thing sold from the Acquirer l. 22. C. de admin. Tut. vel Cur. junct. l. 2. l. 16. Ca de praed. eor. junct. sub Tut. Stat. Just. lib. 1. tit. 6. s. 10. and altho the Minor were not wrong'd in the price of his Lands or Tenements, yet he would be relieved against the Sale thereof, if it were for no other Reason, but because it is more profitable for him to keep his Land and Tenements, than to have the price thereof, Les Loix Civiles &c. Tom. 1. part. 1. Liv. 4. Tit. 6 Sect. 2. Art. 24. Therefore a House in Edinburgh sold by a Tutor without a previous Warrant of a Decree of the Lords of Session, was declared to belong to the Pupil after it had been raised several Stories higher by the purchaser, without putting the Pupil to prove Session by the Sale; and the purchaser was found to have right only to the Expences of profitable Meliorations 5 February 1692 Sandylands contra L. Niddery. 2. The ~~Deed~~ Deed of a Minor having Curators without their Consent is null and may be quarrelled even after expiring of the Annuitiles 7 December 1666 McKenzie contra Fairholm tho no prejudice to the Minor be alledged l. 3. C. de integ. restit. Min. Craig Feud. lib. 1. tit. 12. s. 16. Stat. lib. 4. tit. 20. s. 30 & 34 McKenzie Just. lib. 1. tit. 7. s. 9. A Fack being granted by a Minor and not subscribed by his Curators, was found null as without their Consent, tho no Session was qualified: and the Minority and having of Curators at the Time, was found cleared and supported by several Administrals, without producing a judicial Act of Curatory 20 February 1700 Lady Cardrop contra Representatives of Hamilton: Yea a Minor's Obligation in a Contract of Marriage for a Focher to his Sister, not consented to by his Curators, was found null, albeit the Marriage was perfected and the Sister renounced her Legitime upon that Condition of Focher. Because Frater non tenetur Dotare Sororem l. 12. s. 3. ff. de admin. & poric. Tut. and the parties were married a Year before the Contract 19 December 1692 Maxwell contra E. Fildisdale. A Minor having Curators may advance his Interest, make his Condition better without them, by any Deed that carries no Hazard along with it St. Just. de Aut. Tut. 14 March 1699 Hepburn contra Hepburn.

But no Minor having Curators can enter Heir without their Consent, tho he sustain no prejudice thereby: because possibly it might prove hurtfull to him by suspecting him to the payment of Debts 16 February 1627 Simon contra L. Balgounie.

Deeds of Minors wanting Curators to their own Hurt, or their self prejudicial

This can be proved

prejudicial Deeds with Consent of their Curators, are quarrelable only in the Way of Reduction, before the Lords of Session, who only can restore Minors in integrum Craig Feud. lib. 1. Tit. 12. s. 16. Stat. lib. 4. Tit. 20. s. 30 & 34. McKenzie Just. lib. 1. tit. 7. s. 9. An heretable Alienation of Lands by a Minor of 14 years of Age not authorized by the Sentence of Sovereign Judges, or the Consent of Curators, was not sustain'd albeit the Minor received the price, which was understood as given perditura, seeing it was not profitably applyed, nor consign'd to be given to the Minor as a Judge should appoint.

In order to reduce a minority Deed the Person wrong'd by it, may raise and execute a Reduction before he be 25 Years of Age. For the 21 Years be the Term of Majority, 4 after, called Anni utiles, or quadriennium utile, are allow'd to commence Reduction in 2 February 1690 Hamilton contra Shopp. Because Restitution in integrum by the Roman Law behov'd to be obtain'd within 4 Years after it was competent l. ult. C. de tempore integ. restit. Reduction at the Minor's Instance, must be executed before he be 25 years old for it is not sufficient that he revoaked the Deed within that Time without raising Reduction 25 January 1672 Ramsay contra Maxwell Tho was a bare Revocation by the King in Parliament, as to Lands not annexed which came to his Majesty's Hand by Forfeiture, Recognition, or other Casualty, and were dispos'd by him in his Minority, sustain'd without a special Declarator to dispossess the Receiver of the Disposition: albeit a revoaked Alienation of the annexed property is null without a Declarator Spotsw. Revoic. 20 July 1591 Hopple contra Her.

The Minor may draw up a Revocation of the Deed and subscribe it before Witnesses and registrate the same, and thereupon raise Reduction intra Annos utiles. But Reduction may proceed without such a previous Revocation which is not absolutely necessary. McKenzie Just. lib. 1. tit. 7. s. 9. But raising and executing Reduction intra Annos utiles sufficeth to interrupt the Prescription, so as the Pursuer may insist in his Reduction after these Years are run 16 November 1691 M. Dougal contra Arbuthnot of Fiddes. A Female Minor was repoyed against her Contract of Marriage upon Session thereby, albeit she had not revoaked or raised Reduction intra Annos utiles: in respect she did it timeously after Dissolution of the Marriage, and she was not valens agere stante matrimonio being then sub potestate viri 25 July 1710 Chalmer's contra Creditors of Lyon.

In France Restitution with respect to Minors, prescribes in 10 years after their Age of 25 Years which is the Term of Majority there. So that after 35 Years complete they are not allowed to sue for Restitution Les Loix Civiles &c. Tom. 2. part. 1. Liv. 4. Tit. 6. Sect. 2. pr.

In England 10, 6, 4, or 2 years are allowed, according to the Nature of the Action, after full Age, to commence a Suit or Action which was neglected during Minority 21 Jac. cap. 16.

In the Reduction of assigned Bond at the grantor's Instance, Citation of