

Restitution of minors. Reduction will be prevented by the  
 defender making offer to make up to the minor his share in  
 the loss (Case when reduction is barred - Effect  
 of a minor's offering that he is major)  
 ought to blame himself for. Thus in general when two Minors have had  
 Dealings with one another, and when there is Damage done either to one of them  
 alone, or to both, and it is not possible to restore both the one and the other to the  
 Condition they were in before; the Judgment in Relation to the Restitution,  
 ought to depend on the Qualitie of the Facts and Circumstances, and on the  
 Condition into which the Event shall have put the one and the other, to relieve  
 him who shall be found to be under an Engagement, the Execution whereof  
 would do him such a prejudice, as might be a just ground for annulling the  
 Engagement. Les Loix Civiles &c. Tom. 1. Liv. 4. tit. 6. Sect. 2. Art. 18.  
 In the case of a Minor's Lease by underselling of his property, an offer from  
 the Buyer to make up to him what was wanting of an adequate price will  
 not hinder Restitution l. ii. C. de prad & alijs reb. Minor. l. 24. s. 4. l. 27. s. i. m.  
 fin. ff. de Minor. Voet. Comm. ad tit. ff. de Minor. N. 55. Thus in a Quitclaim of  
 a Disposition of Lands upon Minority, and Lease, it being found that the  
 Minor was lured through not having received a full and complete price;  
 the Receiver of the Disposition was not allowed ex post facto, to supply the  
 onerous Cause by other Debts to which he had Right, albeit Imposition  
 had been used thereon before the Receiver's Right, without prejudice to him  
 to affect the Minor's Estate for the same as Accords is June 16<sup>th</sup> P. Jhoers  
 contra Forbes of Golquhon.

This privilege of Restitution ceases in several Cases.

1<sup>o</sup> A Minor who deceives the Person who contracts with him, by calling him-  
 self Major or giving out that he was of Age is barred from the privilege of  
 Restitution l. 2. 3. & tit. tit. C. si min. se major. dia. ult. February 1637  
 and 30 March 1639 Weems contra Maitland. 23 February 1665 Henne-  
 dy contra Weir. Nor is a lease Minor restored, if at the Time of the Contract  
 he was held to be Major in the sense of Law being in the common Opinion  
 of every body reputed Major, by reason of his acting publicly as such l. 32.  
 ff. de Minor. Arg. l. 3. ff. ad Sotum. Maced. l. 3. ff. de Offic. Praetor. Man-  
 tan de titel. cap. 33. N. 47. Lande Decif. Fris. lib. 2. tit. 9. def. 16.  
 Voet Comm. ad tit. de Minor. N. 43. quia deceptis & non deceptentibus  
 jura subveniunt. Et malitia supplet aetatem. And any Allegation that the  
 Minor said he was Major must be proved by his own Oath or by Vrit, and  
 not by Witnegh. l. ult. February 1637 Weems contra Creditors. But tho a  
 Minor should say that he is Major to the Person with whom he contracts,  
 or should behave like one that is Major, that would not avail the Contractor  
 if he induced the Minor to affirm that he was Major eod. die inter eosdem  
 Or was not ignorant that he was dealing with a Minor, and cunningly dis-  
 sembled his Knowledge. Les Loix Civiles &c. Tom. 1. part. 1. Liv. 4. tit. 6. Sect. 2.  
 Art. 7. For such a Person is not so much deceived by another as by him-  
 self, Arg. l. 25. junct. l. 26. ff. de rei vind. et dolus cum dolo per se fundus  
 est l. ult. s. pen. ff. de eo per quem fact. Arg. l. 4. s. 13. ff. de doli mali de-  
 met.

Restitution of minors - barred by homologation

met. except. Never the less it is incumbent in that case on the Minor to prove  
 that the other party knew his Condition Arg. s. 4. Institut. de legat. junct.  
 l. 2. ff. de probat. unless he be a Person whom Law presumes to know it l.  
 7. C. de in integr. restit. Min. So the Reason of Minority was not sustained  
 against a Bond, which expressly bore that the Grantor was Major, unless that he  
 could instruct that the Creditor induced him to insert such a Clause, or might  
 have known by his Aspect that he was Minor, or was obliged to know so  
 much by his being Tutor of Grantor of the Bond, 23 February 1665 Henne-  
 dy contra Weir.

2<sup>o</sup> A Minor is excluded from Restitution by, ratifying tot. tit. C. si  
 maj. fact. rat. hab. or homologating l. 3. s. 1. ff. de Minor. Arg. l. 3. s. ult. l. 4. s. ff.  
 de Pto. Maced. the Deed after his Majority. If one after Majority do any  
 thing in consequence or Implement of such a Minority Deed as was ipso  
 jure null without Revocation that will injure Homologation l. 10. ff. de reb. cor.  
 qui sub tit. since he was under no legal Necessity to perform, had a majority =  
 deed not in Implement or in consequence of what was done in Minority, but  
 supposing the Validity thereof as a Person's buying again what he had sold in  
 his Minority, and heirs accepting or exacting a Sum with which a Debtor  
 Disposition ratified by him in his Minority ~~was~~ was burdened in  
 his favour, and the like, doth infer Homologation l. 30. ff. de Minor. l. 10.  
 s. i. l. ult. ff. de inoff. testam. l. 5. pr. ff. de his qui ut indign. Alf. Radclant cur.  
 trap. Decif. 25. Striv. Syntag. jur. ad tit. ff. de Minor. N. 52. Voet. Comm.  
 ad tit. ff. de Minor. Arg. ff. de Minor. Arg. If a Minor ratifie after his Majority and alienate  
 or of his heretable Estate by his Tutor without a Decree of the Lords, it  
 cannot be afterwards quarrelled. Nor can the Tutor who did so alienate,  
 coming afterward to succeed as Heir to his pupil, alledge the Nullity  
 l. 10. ff. de reb. cor. qui sub tit. vel cur. sine decr. Nor yet could such a Tutor  
 be heard to impugn it, tho come in the Minor's place by a singular Ti-  
 tle of Appignation: quia nemo potest in proprium factum venire. A  
 Minor's paying after his Majority annuallrent for a bond of borrowed  
 Money granted by him in his Minority, was found to be a Ratification of  
 the Bond, which excluded Reduction albeit the annuallrent was payed in  
 obedience to a Charge of Honour upon the Bond, seeing he might have  
 suspended the Charge 30 July 1630. Johnston contra Hope. And a Minor's  
 Cautioner paying after his Majority annuallrent out of his own Money,  
 for a Bond granted by another as principal and him as Cautioner in his  
 Minority, is reckoned Homologation to hinder Reduction 19 February 1660.  
 Michenzie contra Fairholov. But the doing of something by a Person  
 after he is Major in consequence of a Bargain completed in his Minority,  
 so the satisfying a Decree against him, making or taking payment  
 of Debt upon passive or active titles, incurred or made by him in his  
 Minority, exacting the Price of a Subject then sold by him, or Delivery