and therefore believed to instruct the onerous Cause of the Disposition, otherwise
than by the Narrative of it which bore for certain Sums of Money received is found
1710 Leslie contra Creditors of Leslie. For the Law provides only for the Secur-
ity of a voluntary Purchaser from commercij and leaves Creditors to their owne Shifts
to affect their Debtors Right by Apprizing or Reduction as he had it, and Re-
fund it cum sua causa. Stewart Answers to Dirlet Doubts. 11. Rights made by
the Dyvours. Now a Right Apprized or adjudged being reducible while it continues
in the Debtors Person, it cannot be more effectual in the Person of an Appro-
ver. As a Reduction ex capite inhibitionis or interdictionis, would equally militate
against an Apprizer or Adjudger of the inhibited or interdicted Party's Right
as against an Acquirer by a voluntary Disposition. Again the Reason of the
Law seemed to take place in an Apprizer or Adjudger, who did not in the
first Constitution of the Debt follow the Faith of the Right quarrelled, but
only apprized or adjudged it upon his Hazard as belonging to his Debtor, after
he found that his Money was not otherwise secure or recoverable. Besides the
precluding Apprizers or Adjudgers equally as voluntary Purchasers in this
Matter, would open a Door to Multiplicity of Frauds: for any Creditor might
induced to apprize Rights from confident Persons; whereas few will venture
to buy such Rights. A Disposition to a confident Person, bearing, for security
of a Sum owing to him by the granter who was solvent at the Time, may
never even quarrelled for 80 Years; a singular Successor to the
=ceiver of the Disposition was found not obliged to prove the onerous Cause there
otherwise than by the Narrative in a Competition with anterior Creditors of
granter, when his Estate had proved insufficient to pay his Debts 21 Feb. 1711 Ly
ry and Williamson contra Gordon. Is favourable in our Law are singular Successors
heirs are not Partakers of their Authors Fraud, that not any in Vigour for an one-
Cause is not wronged by the Oath of his Cedents. But also a Person's filling up
Years in a Tack granted to him Blanck as to the Tenne, in Mead of 19 Years
Tack upon was found relevant to reduce the Tack & Assignation, and
as to a third Party requiring from him for an onerous Cause without Sight
Partaker of the Fraud 1 Decemb. 1671 Crichton contra Crichton & Carruthers
And a Singular Successor requiring bona fide for an onerous Cause from a Person
whose Right was but a Trust affected with a personal Back-bond, was found not liable
to Reduction at the Instance of the Truster 20 Novemb. 1672 Workman contra
Crawford. Again, the Gifts of Escheat taken to defraud Creditors, be reducible
while in the Donatary's Person, they are not to be quarrelled if once established
Assignation in Singular Successors no Ways Partakers of the Fraud.

But tho' a Right purchased by a third Party from the interposed conjunct Per-
bona fide for a just Price or in Satisfaction of Aliment Debt, cannot be reduced, yet
the Receiver of the Price is obliged to make the same forthcoming to the Ban-
=rupts lawful Creditors, deducting what he hath already paid to any of them
without partial Favour conform to their Diligences; and answering for the
Remainder to such as want to be paid d. Act 16. Oct. 23. J. 6. According as they
shall affect the same by their respective Diligences. For Reduction doth not
settle upon the Obtainer any Right to his Debtors Estate, but only sweeps

away such fraudulent Deeds as hindered him to affect the same by comprizing
Arrestment &c.

It may be argued, that a Purchaser from a Bankrupt Partaker of his Fraud,
should not only be excluded by the Disponer's Creditors from the Myssel allimentj
but also should be denied Repetition from the Disponer of any Price truly paid to
him. Because Law is not the Minister of Injurity to find it's Assistance in
recovering what is due by fraudulent and unworthy Obligations. Ubi dirilis
et accipientis versatur turpitudo, cessat repetitio l. 3. C. de condict. ob turp.
caus. Men are rather to be delivered from that inviting to the committing of
Cheats. Which seems to be further clear from l. ult. C. de praescrip. 30 vel 40 Ann.
l. 17. C. de rescind. vend. l. ult. C. de litig. l. 27. C. de edict. Adrian. tollend. The
Buyer complains of this seeing he willingly run even the Hazard. But yet
on the other Hand it would seem, that the Purchaser should have Restitu-
tion of what he gave to the Bankrupt in contemplation of the Fraudulent
Right Arg. l. 2. C. de rei vind. as given to Evict. C. communia de legat. Because I.
Mutual Crimes and Deeds are extinguished by compensation l. 39. ff. de obl.
Malvin. Therefore a fraudulent Buyer could have Action of Restitution against
his fraudulent Seller, as if one Fraud had extinguished the other. 2. Where Parties are in
the same Case the Law favours most favourably that Party who is in Possession l. 74. ff.
de reg. jur. And here the Buyer is seeking only to secure himself against
Loss: Whereas the Seller retaining the Price, and also getting back Creditors
paid out of the Subject alienated, would in a manner by his own Dishonesty
Sir George M'Kenzie observes & decided 16. Nov. 1666 Hamilton, that reasonable, that the
Price given in such a Case were compensed by publick Authority: for Le-
gacies left to unworthy Persons become caduciary in the Civil Law and
to the Fisk; that as both have offended, both should be punished, the one by
ing obliged to refound the Price received, and the other by not getting it. Ge
rator or Curator becomes a partaker in any Fraud with a Debtor committed against his Creditors by favouring
in that Cause, the inhaircing of the said Debtor by any deed whereby Debtor to the prejudice from the said
Debtor or Curator has under his Charge, he shall be bound personally for the Loss which his Fraud may have
caused. Lex Cincia debetes &c. Sent. recept. Lib. 2. tit. 10. sect. 4. Ad hoc Nimes which Debtor or
Curator had the Administration of shall be bound to repair this Fraud, also the Receiver getting what
part he will be liable only for so much as shall have profited thereby l. 10. 92. ff. Quib. ex caus. in poss. Ead.

The Fraud may be proved by Writ or Oath of the Receiver of the Right,
that it was without any true and just cause, or that the Lands and Goods being
again sold, the Price or most part thereof was or is to be converted to the
Bankrupts Use Act 16. Par. 28. J. 6. Albeit Fraud or Accession to it, is
=fess Infamy, d. Act 16. and our Law obliges no Man to swear in quam turpi-
=dinem: Yet the Defender in a Reduction of a fraudulent Deed, may be
forced to depone, whether he was Partaker thereof; provided the Lords and
his Majesty's Advocate assure the Party, that he shall not incur thro' his
Oath infamiam juris. And the Lords have ex nobili officio ordained Parties
to be examined upon their Accession to fraudulent Contrivances 7 Feb. 1673
Burnet contra Frazer, and do even in Improbations examine such as
are said to be Authors of Falsehood. A fraudulent Promise made by a
Son to his Father, to discharge a Provision in his Contract of Marriage,
was found probable by the Father's Oath 21 January 1680 Liddel contra
Keith. A Reason of Reduction of a Disposition for it's being gratuitous,

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