

Might ever be rendered illusory, nor is payment before the term by a Subtenant to the principal tackman held as done bona fide. Because the Master of the Ground has Action not only against the tenant but also against the Subtenant or any who enjoyed the fruits of his ground and may convene them personally for his Rent, the greater than the Law Duties: Which Action they cannot Elude, by paying before the term: saving otherwise they might pay the whole term of the tack at their Entry, so Disappoint the heritors Claim of them. But an Under tenant may be made pay to the principal tackman after the term, Justly presuming he has paid the Heritor, who may blame himself that he did not. The Subtackman, 2 Feb. 1667 Lady Graquair contra Thomson. Payment of a term or half Years rent before hand Conform to a clause in the tack or custom of a Barony, to pay a term at the Entry, and be free of it at the term of Removal, was found relevant against the singular Successor or assignatory of Forfeiture 7 January 1662. L. Lauder date contra term of Snynton. A person to whom lands were disposed, in trust upon granting a tack to be applied a part of the price to satisfy a bond or Provision due to the Disposers brothers and sisters; was found to be paid them bona fide after Reduction raised of the disposition, the special reason of Reduction had been by Act against that Bond. Shown to him before the payment 19 July 1662 Montgomery contra Wallace. But a Gratuitous Discharge, tho it bear payment, the receiver will not be sustained to have the same Effect, as true and real Payment made bona fide. Stair lib. 1. Tit. 18. § 3 Vers. Missives.

Obligation Expressing no term of payment or performance, are to be paid or performed immediately when the Creditor demands it. Quia in Obligationibus ubi dies non ponitur presenti die debetur l. 14 ff de reg. Jur. Since the term is added only in favour of the person who is obliged, if no time is allowed him for performing what he ought to do or give, he is bound to do it or give it immediately and without delay: unless it happens, that the performance of the Contract implies the necessity of a delay, as when it is to be made in another place, than the place where the parties enter into Contract l. 41 § 1 ff de verb. Oblig. When payment or performance is to be made immediately, that is, Money must be paid within 24 hours, and a work must be performed within such a time as is necessary to do it Stair lib. 1. Tit. 17. § 18 Corpzov.

Juris Prud. Forens. part 2 Const. 28 def. 19. For the Rule afore said is not to be taken so strictly as that the Creditor may venire cum sacro Paratus l. 103 ff de Blat. but to be understood with a grain of Allowance. When the term of payment is express, the Creditor cannot demand his Debt before the day appointed. But Iveritum, if the Creditor may not Compell the Debtor to wait till the term of payment? It is answered. If a term for paying be accepted only for the Debtors sake, as when a sum is then payable without Interest, he may acquit himself when he can, and force the Creditor to take payment before the term l. 35 § 16 ff de verb. oblig. l. 70 ff de solut. Corpzov. ibid. def. 11. But if the term for paying be fixed in favour of both the Creditor and Debtor, as when the Money is at Interest, the Creditor may Compell the Debtor to wait till the term l. 122 pr. ff de verb. oblig. Corpzov. ibid. def. 12. A Factor of the Mills of A burgh having paid his tack duty per advances to the Town Treasurer for the time, was found to have paid bona fide, so as the subsequent Magistrates could not Question as to their jurisdiction who ought to have the common good of the Burgh during the time of their administration for supporting and Defraying the Burdens thereof, no to the prejudice of their Creditors who thereby want a Subject to Arrest for their debts contracted in their time: because the term of payment being in favour of the Debtor, he may pass from it by making fore hand payment, and the Acts of Office of Magistrates being their Successors who are reputed one and the same person; especially considering, that no Creditor or third party pretending Lesion is in the field 27 June 1688 Magistrates of Edinburgh contra Dickane Juridice. If a man obliges himself to pay when he thinks fit a certain sum to another; the Creditor may require payment from the Debtors heir immediately after his death Corpzov. ibid. def. 18.

Payment must be made in the proper place, that is, if there be a place mentioned in the Obligation where it is to be satisfied, the Creditor cannot be Compelled to accept of payment any where else arg. l. pen. ff de eo quod cert. loco tho it may seem as convenient to the Creditor: And the Custom there of must be the Standard for adjusting Controversies about the payment. Firm illic contractus Intelligatur Celebratus ubi ejus Implementum Destin