

Right to the Rent of the wadset lands since the order 8 Decemb. 1670
 Forest contra Brown. Yea an Order of Redemption was sustained
 to make the wadsetter accountable for the rents from the date of the
 order, tho' the Money was Immediately taken up by the consignee, being
 now produced with the annual rents since the consignation. Because
 It was the wadsetters fault that he did not receive his Money, and the
 offer of the order upon whose pen it was consigned, did for his own
 security manfully uplift it out of the consignatories hand who
 might have proved Indolent 24 Feb. 1670. Jarvis of Appleby
 contra Johnston of Lockerby 29 Novemb. 1672. D. Billelicke contra
 Spirestan. A Receipt of the Money must be taken from the
 Consignatory. For the Instrument of Consignation proves the
 rising of the order of redemption, it will not prove against the Consi-
 gnatory, that he received the Money, which can be instructed only by
 his own oath as don't, to make him answerable for it 14 June
 1630 Laurie contra Miller. Because he says and design of the
 Instrument is to show that the order was used, and a Notary ought
 to be credited in what he does ex officio, requiring no other authority
 to perfect it but his own act: that is, omnia presumuntur veritate
 iuris ac si alia things relating to the authenticity of the Instrument
 are presumed to be done as it bears. Where as the Instrument
 was not intended to make the consignatory liable seeing the Redeem-
 doll usually after the Instrument take up the Money, which
 may warrantably do for its preservation if he thinks fit, when
 is liable to make it good to the wadsetter. However in an action
 of redemption letters of homing have been granted to adventure upon
 an Instrument of consignation against the Depository without
 calling him, or any other previous trial that the Money was
 really consigned in his hand 7 Decemb. 1631 & 21 January 1632
 Grierson contra Gordon. But he might have easily suspended
 that charge.

The Reverser, after an order of Redemption used by himself
 or his author, raises a Declarator of Redemption against the
 wadsetter. For such a Declarator may proceed not only at the
 Instance of the Grantor of the wadset, but also at the Instance
 of an appriizer of the Reversion, without calling him from whom
 It was appriized 17 Decemb. 1629 L. Carnoustie contra L. Foch
 Murie. the appriizing being a legal assignation to the Reverser
 Yea

Yea Declarator is competent to an heir, upon an order of Redemp-
 tion used by his predecessor to whom the Reversion was granted
 only during his life: Because the order did Extinguish the wadset,
 and the Declarator doth only Declare that it was so Extinguish
 Stair lib. 4 Tit. 5 § 7. But Declarator is not sustained at the Instance
 of an heir, upon an order used by himself before he was Extinguish
 heir, tho' he be entered before his raising of Declarator 19 January
 1672 Lord Lovat and Kintail contra Lord McDonald. Because the
 wadsetter is not obliged to receive his Money or quit possession to any
 person wanting a formal title at the time when the order was
 used. The wadsetter necessarily to be credited is only the present res-
 table possessor of the wadset, and not his immediate author grantor
 of the Reversion, whose right he cannot contravert as Common
 Author to himself and the Reverser. But in process of redemption
 against a singular successor in a wadset, whose rights do not
 appear to flow from the Grantor of the Reversion, who perhaps
 disposed the lands absolutely without reserving the Reversion,
 the pursuer must instruct that the Grantor of the Reversion
 Stobie must in his fee, and must file him on his record, if the
 Defender consents upon them: seeing they might be liable
 to him in warranty for disposing to him simply without
 Reversion 9 July 1630 Fisher contra Brown Stair lib. 2 Tit. 10
 § 19. A Declarator of Redemption may proceed against the
 wadsetters apparent heir without a charge to enter, upon
 an order used against the Deceased 11 Decemb. 1635 Finlayson
 contra Wernis. And the Decree of Declarator is the Extinguish
 the wadset, even against singular successors, whereas it
 differs from a voluntary Redemption Stair lib. 2 Tit. 10 § 19
 lib. 4 Tit. 5 § 3. But if the Reverser be not Infeft, nor heir to a
 person Infeft in the wadset lands, he will find it necessary
 to charge the apparent heir to enter, to the end he may defend
 and dispose the wadset right to him, which an apparent heir
 not being charged cannot be Decerned to do Stair lib. 2 Tit. 10 § 30. Thus
 in a Declarator of Redemption against an apparent heir of
 a wadsetter, the lords ordained the Money not to be given up
 to the said apparent heir, till he was Infeft as heir to his
 Predecessor