

1705. *November 21.*CREDITORS OF PATERSON and ANDERSON *against* DOUGLASSES.

No 52.

THE dispositive clause by an heiress in her contract of marriage, in favour of her husband in liferent, and the heirs of the marriage in fee; which failing, to his heirs or assignees, reserving her liferent, was found to make the husband fiar; the obligation to infest, and the procuratory of resignation being to him and her in conjunct-fee and liferent, and to the heirs of the marriage in fee, which failing, to his own heirs and assignees; and the assignation to the writs with the obligation of warrandice, being conceived in favours of him, his heirs or assignees.

Fol. Dic. v. 1. p. 302. Forbes. Dalrymple.

* * * See This case, Div. I. Sec. 2. *b. t.* No 21. p. 4223.

1707. *March 27.*

GEORGE FRASER, Brewer in the Canongate, *against* ANNA BROWN, Relict of John Gordon, Brewer in Edinburgh, and her CHILDREN.

No 53.

ANNA BROWN, in her contract of marriage with John Gordon, brewer in Edinburgh, celebrated after the birth of their second son, disposed some lands, whereof she was heiress, to her husband in liferent, and to the heirs procreated or to be procreated of the marriage, which failing, to the husband, his heirs or assignees in fee, heritably and irredeemably, reserving her own liferent: Which contract contains an obligation to infest, either by resignation or confirmation, as best should please her and her said husband, and their foresaids; and a precept for giving heritable sasine to him or his attorney; and gives, in the assignation to the writs, full power to him and his foresaids 'according to the destination of liferent and fee above specified, with the reservation of her liferent above mentioned' to intromit with, uplift, &c. and mentions the writs and rights of the lands to be delivered to the husband to be kept and used by him for the use and behoof above-mentioned. The said Anna Brown suspecting her own interest not well enough secured by the contract, took from her husband a separate bond of the same date, whereby he obliged himself, failing heirs of the marriage, to denude in favours of her, her heirs or assignees. George Fraser, brewer in the Canongate, a creditor of the said John Gordon, having after his decease obtained an adjudication against Francis Gordon the defunct's son, upon a *cognitionis causa*, and his renunciation to enter heir, and pursued a mails and duties against the tenants; compareance was made for the said Anna Brown and the said Francis Gordon her son, who alleged that the rents in question belonged to them in liferent and fee respectively, by virtue of the contract of marriage aforesaid, and so could not be

An heiress, in her contract of marriage, disposed to her husband in liferent, and to their heirs, whom failing, his heirs or assignees. The husband found to be a naked liferenter. See SYNOPSIS.