

ADJUDICATION AND APPRISING.

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(NATURE and EFFECT.)

to them beyond that extent. Hence, as the object of the diligence of adjudication is the security of the debt, and not its enlargement, the creditors can be ranked only for the penal sum.

No 23.

Answered: Though, to the effect of restoring debtors against the penal consequences of an expired legal, adjudications be now considered merely as securities, they are, in their proper nature, sales under reversion. Justice, therefore, will not permit the reverser, by delaying to redeem, to forfeit his creditor of the advantage the latter would have derived from the use of his money.

THE LORDS found these creditors entitled to be ranked, not only for the penal sums, but also for the interests thereon, after the date of their several decreets of adjudication.

Lord Reporter, *Monboddo*.
Hepburn, Elphinston.
Clerk, *Colquhoun*.

For the Common Agent, *Lord Advocate (Dundas), Blair, Buchanan*.
For the other Creditors, *Ilay Campbell, Wight*.

Fol. Dic. v. 3. p. 12. Fac. Col. No 87. p. 134.

Craigie.

1783. *January 31.*

Ranking of the CREDITORS of the YORK-BUILDINGS COMPANY.

AMONG the Creditors of this Company by penal bonds, some, by way of liquidating the damage they sustained, by losing the interest of their money after twenty years had elapsed from the term of payment, obtained decret in their processes of adjudication, not only for the penal sums, but also for a fourth part more, and claimed to be ranked accordingly.

It appeared, from the opinion of English counsel, that bonds of this sort at no period created a demand for more than the penal sums.

THE LORDS, therefore, found, ' That the adjudications, when led for more than ' the penal sums in the bonds, were to be restricted to a security for payment of ' an accumulated sum, not exceeding the penal sums and interest of such accumulated sum, from the date of such adjudication, till paid.'

Lord Reporter, *Monboddo*.

Partibus ut supra.

Fol. Dic. v. 3. p. 12. Fac. Col. No 88. p. 135.

Craigie.

No 24.

The accumulated sum, in an adjudication on English bonds, restricted to the penal sums.

APPRISERS *and* ADJUDGERS *may be restricted, in their Possession, to their neat Annualrents.*

* * THE act 62, Charles II. 1661, (p. 271. duodecimo), contains this clause :
 “ And, in case the lands, and others, comprised, exceed, in yearly rent and value, the annualrent of the fums contained in the saids comprifings, and of the expence disbursed in obtaining infestments thereupon, and the debtor shall desire the creditor to possess the lands and others comprised, it shall be lawful to the Lords of Session, likeas the saids Lords are hereby empowered and authorized, upon a supplication to be made to them by the debtor, and citation of the comprifers, to appoint the apprifers to possess such of the saids lands and others, during the legal reversion, as the saids Lords of Session shall think just and reasonable : The saids debtors always giving possession to those who have right to the saids comprifings ; and ratifying their possession already apprehended by them (if any such possessions they have) of such of the saids lands and others, as the saids Lords of the Session shall appoint, not being beneath in yearly rent and value of the annualrents above-mentioned ; or otherwise giving to the creditors (whether they have possession or not) sufficient security, at the sight of the saids Lords, for payment of the saids annualrents, during the time foresaid ; the saids Lords of Session having always power to determine, whether, in the cases foresaid, the debtor shall give surety to the creditor, for his annualrents ; or, the debtor not being able to give surety, the creditor shall be obliged to take possession of the debtor's lands. And if the Lords of Session shall appoint, in the case foresaid, the creditor to be possessed for his annualrent ; then, and in that case, the debtor shall be holden to deliver the evidents of the saids lands to the creditor, or transumps thereof ; providing always, that the creditor's right, by virtue of the saids comprifings, be noways prejudged after the expiring of the same : And that the whole lands and others, both such as shall be possessed by the debtor, and remanent of the lands and others contained in the saids comprifings, shall pertain to the creditor irredeemably.”

1662. *June 27.* Sir WILLIAM WILSON *against* Sir WILLIAM MURRAY.

No 1.
 Apprifer's
 possession re-
 stricted, but

WILSON having apprised Sir William Murray's estate, pursues him and his tenants, for mails and duties ; who *alleged*, That, by the act of Parliament 1661,