

No 8.

1626. March 24.

GRAY *against* TENANTS.

A PURCHASER, though his sasine was not registered, was found preferable to the seller's creditor arresting the rents in the tenant's hands; for the sasine was a real right with regard to the seller and his creditor, and consequently against the tenants, who did pretend no right to the property.

*Fol. Dic. v. 2. p. 330. Durie.*

\* \* \* This case is No 108. p. 562, *voce* ANNUALRENT.

No 9.

As a formal discharge of a reversion must be registered, so must an obligation to grant a discharge.

1626. November 25.

TURNBULL *against* SCOT.

THE LORDS found, in an action betwixt Turnbull and Scot, a bond produced for verifying of a triply, admitted to Turnbull's probation, whereby the maker of the bond was obliged to discharge a reversion granted to him to be null, because it was not registered in the Clerk of Register's books, conform to the act of Parliament *anno* 1617, and therefore found the triply founded thereupon not to be proved; and this was found, notwithstanding that the pursuer *alleged*, That the act of Parliament foresaid extended not to bonds made for discharging of reversions, and there was not any mention made of such bonds in the said act, and the LORDS could not extend the act of Parliament further than the very words thereof bore; notwithstanding of the which allegiance, the LORDS found the same null, for not registration, as said is, because the act of liti-contestation found the allegiance founded upon a bond to discharge the reversion, to be as sufficient as a discharge thereof; and so as it was equivalent to a discharge, they found that it ought to be of the nature of a discharge in that point, which, without registration could not have been sustained; and this was found, being proponed not by him who made the bond, but by a third person, who had acquired the heritable right from the maker of the bond after the making thereof, and whom the LORDS found to be a competent party, and to have sufficient interest to propone that nullity; albeit the pursuer *alleged*, That the act of Parliament admitted that to be proponed only by one who had a better right, in which case the proponer was not, whose right was after the pursuer's right and inhibition executed thereon, which was repelled, and the bond found null.

Act. Staart.

Act. Cunningham &amp; Scot.

Clerk, Gibson.

*Fol. Dic. v. 2. p. 330, 331. Durie, p. 236.*