

infest holden of the superior; and Grantullie was permitted to dispute and propone that he could have alleged against the inhibition and action of reduction if he had appeared.

No 107.

*Fol. Dic. v. 1. p. 475. Haddington, MS. No 2603.*

1667. July 16.

ELES against WISHART and KEITH.

No 108.

INHIBITION does not strike against redemptions of wadsets, renunciation of annualrent rights, and other redeemable rights.

*Fol. Dic. v. 1. p. 475. Stair. Dirleton.*

\* \* \* This case is No 85. p. 7020.

1667. December 10. MR ROGER HOG against THE COUNTESS OF HOME.

No 109.

MR ROGER HOG having appraised certain lands from the Laird of Wauchton in Alcambus, which were sold to Wauchton by the Earl of Home, with absolute warrandice; upon which warrandice there was inhibition used; whereupon Mr Roger pursues reduction of an infestment of warrandice of these lands, granted by the Earl of Home to my Lady, in warrandice of the lands of Hirsil, and that because the said infestment of warrandice is posterior to the inhibition. The defender *alleged*, That there could be no reduction upon the inhibition, because there was yet no distress, which with a decret of the liquidation of the distress, behoved to precede any reduction; and albeit there might be a declarator, that my Lady's infestment should not be prejudicial to the clause of warrandice, or any distress following thereupon, yet there could be no reduction till the distress were existent and liquidate. The pursuer *answered*, That a reduction upon an inhibition was in effect a declarator, that the posterior rights should not prejudice the ground of the inhibition, for no reduction is absolute, but only in so far as the rights reduced may be prejudicial to the rights whereupon the reduction proceeds.

A reduction *ex capite inhibitionis* was opposed, because the alienation was conditional. The reduction was sustained to take effect when the condition should be purified.

THE LORDS sustained the reduction to take effect, so soon as any distress should occur.

*Fol. Dic. v. 1. p. 476. Stair, v. 1. p. 491.*

\* \* \* Dirleton reports this case :

1667. December 11.—AN inhibition being served upon an obligation to warrant; a reduction was thereupon sustained, though it was alleged there was neither decret of eviction, nor liquidation of distress; the pursuit being only