

expiring of the legal. And seeing payment, by intromission or otherwise, within the legal, will still be effectual against singular successors purchasing after expiring of the legal, so must renunciations or restrictions be, which require no registration; and this ratification is in effect a restriction, that the apprising shall not reach the lands in prejudice of the annualrent. *3tio*. This annualrent is homologated by this Viscount of Kenmure, who paid the sum to the Bishop's author, Whitekirk; and M'Bryer's apprising returning in the person of Kenmure, the apparent heir, whose right is within ten years, and so under a legal reversion, by the late Act of Parliament 1661, the ratification is upon the defender's own grounds.

The Lords sustained the ratification and annualrent, ratified by the homologation, being now drawn in question during this new legal: but did not determine the first point, whether the ratification, being within the first legal, would be effectual anent singular successors, after expiring of that legal; for though payment or intromission do continue ever to be effectual, that is by statute. But whether restrictions, voluntary renunciations, or reversions, unregistrate, would be effectual against singular successors purchasing after expiring of the legal, that being a general concernment; the Lords forbore to determine therein, this cause being determined upon the foresaid specialty.

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1681. *February 1.* OGILVIE of MILNTOUN *against* MOSSMAN and FORDYCE.

OGILVIE of Milntoun being infest, as heir to his goodsire, in the lands of Craigduff, did pursue reduction and improbation of a wadset thereof, granted to Mossman, upon this reason:—That it was granted *a non habente potestatem*, his father never having been infest; in which process he had obtained certification against any pretended infestment of his father's; which being extracted, he now insists upon this reason of reduction, that the wadset was granted *a non habente potestatem*. The defenders do now produce the father's seasine of Craigduff, and thereupon alleged Absolvitor from the reason. The pursuer opposed the certification extracted before this session, whereby his father's seasine was taken away: and certifications being the greatest security to terminate pleas, and fix rights, it cannot be called in question so long after the extract, albeit a reduction thereof were raised; much less summarily.

The defender ANSWERED, That albeit certifications in improbations are seldom recalled after the full end of the process in which they are granted, as if it be a simple improbation, without other reasons of reduction, where the certification terminates and ends the process; yet where the certification is but an interlocutor, and no definite sentence, and the process yet depending, that certification, upon strong and pregnant grounds, instantly verified, may be summarily recalled; and there can be no more pregnant specialty than in this case, where this pursuer, being apparent heir to his father, and master of all his writs, to shun his father's debts, suppresses his father's infestment, who bruiked, as heritor, the lands in question, and enters heir to his goodsire.

The Lords reponed the defender against the certification, if he could adnunciate the seasine produced.

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