

1751. February 28.

WILSON against BURRELL.

* * * The same case with the immediately preceding, as stated by Lord Kilkerran.

IN a removing from a tenement, pursued by Wilson against Burrell, as having right to an adjudication, led of the subject, with infestment thereon, on a charter from the town of Edinburgh the superior; it was objected for the defender, to the pursuer's title, that he had no right to the adjudication, which was the title of the process.

He was, it is true, gratuitous assignee, by progress, to the heritable bond, containing the personal obligation on which the adjudication had proceeded; but then the adjudication was not conveyed; nor did the disposition contain any general clause of all that had followed, or might follow, on the debt conveyed. And it was argued, that no right, whether voluntary or legal, can pass from one party to another, but by direct conveyance: And, although the Lords may, in some cases, have found, that diligence done upon a debt, is accessory to the debt itself, and intended to be conveyed along with it, though not expressed, those decisions were said only to regard conveyances for onerous causes; in which case, it may be just to find the cedent obliged to supply the defect of not having conveyed the diligence; but that it had never been found, that without a suppletory right, which the cedent, for an onerous cause, might be obliged to grant, the conveyance of the debt imported a conveyance of the diligence.

But, as in this case, the conveyance was merely gratuitous, there lay no obligation on the cedent to do more than he had done, by conveying the debt itself; and Burrell's interest to plead this was, that he was himself creditor, by heritable bond, on the subject; which might be sufficient to answer both debts; whereas the adjudication, now expired, conveyed the property.

THE LORD ORDINARY having found, that the adjudication, on the heritable bond, was conveyed, by the disposition, to the purchaser of the debt on which it proceeded, although the adjudication was not specially conveyed; the LORDS 'Refused the petition against this interlocutor, without answers.'

It was strange to suppose the intention of the disponent to have been to retain the adjudication; which could be no longer of use to him, after he had transferred the debt for which it was led; and it was thought a mistake, to suppose a suppletory conveyance necessary.

No 19.
The conveyance of a debt implies a conveyance of all that has followed upon it.

Kilkerran, p. 1. No 1.