

2. There is a maxim: "Res inter alios acta aliis neque prodesse neque nocere potest." Hence, if A owes B £10, and he also owes C £20, then, if B and C agree by a contract to which they alone are parties that they will accept ten shillings in the pound from A in settlement of their claims against him, it would seem that A could not plead this contract in an action brought against him by either B or C to recover the whole of his debt⁶. But suppose A and B and C are parties to a contract not under seal whereby B and C agree to accept ten shillings in the pound from A in settlement of their claims against him—what then? Is there any consideration moving from A for B's or C's agreement to forgive him a part of his debt? Is there a contract (implied or otherwise) between B and C that neither will sue A for the whole of his debt^{6a}? If there is such a contract, can A avail himself of it? What is the effect of such a contract upon the original debts?

It is interesting to study the manner in which different judges have faced these difficulties.

In 1787 the case of *Heathcote v. Crookshanks* arose.⁷ The defendant set up an agreement (apparently not under seal) between himself and his creditors that they would accept a composition in satisfaction of their respective debts, to be paid in a reasonable time. He also pleaded tender of the composition: The plaintiff was one of those creditors, and yet he obtained judgment in his favour.

Ashhurst, J., said: "The only question is whether his promise by the plaintiff to take a less sum than the whole demand was obligatory on the party ab origine or whether it was a nudum pactum for want of consideration. I am clearly of

6. Compare *Price v. Easton*, 1833, 4 B. & Ad. 433, and *Tweddle v. Atkinson*, 1861, 1 B. & S. 393.

6a. If six persons who are tenants in common of a piece of land contract to sell the land, is there a contract (implied or otherwise) between these six persons that each and all will carry out the Contract of sale? Can one of the vendors obtain specific performance against any or all of the others?

7. 2 T.R. 24.