

administrator are void also, the ground of this being that the assets are vested in the executor from the death, and the supposed administrator has no property in them and no power of dealing with them." There is a curious distinction between such a case and a case where there is a will but no executors of it were appointed. In *Bozall v. Bozall* (51 L. T. Rep. 771; 27 Ch. Div. 220) Mr. Justice Kay upheld a sale of leaseholds by an administratrix, though a will was afterwards discovered which did not appoint executors. That learned judge referred to the old case of *Abram v. Cunningham* (2 Lev. 182), decided in the reign of Charles II., and said: "The report, like many reports of that time, has a short note of the judgment not containing any reasons. But the argument is given at some length, and in it reliance was placed chiefly on the fact that the concealed will had appointed executors, who therefore had a right of property vested in them before probate, and this, I gather, was the ground of the decision. No stress seems to have been laid upon the fraud committed in concealing the will; and, indeed, where the question was whether a third person should suffer who had acquired the property in good faith from an administrator apparently duly constituted, it would not be reasonable to visit him with the consequences of a concealment to which he was no party."

Although, where the will appoints executors, the grant of administration is spoken of as wholly void, certain acts of the administrator are protected. "It would seem, however, that, as between the rightful representative and a person to whom the executor or administrator, under a void probate or grant of letters, has alienated the effects of the deceased, the act of alienation, if done in the due course of administration, shall not be void." Thus in the case of *Graysbrook v. Fox* (Plowd. 275, Temp. Eliz.) "it was laid down by the court, that if the sale had been made to discharge funeral expenses or debts, which the executor or administrator was compellable to pay, the sale would have been indefeasible for ever" (Williams on Executors, 10th ed., p. 462). This is reasonable, as since the executor would have been obliged to pay the funeral and testamentary expenses and debts of the deceased, he must be taken to have adopted the acts of the administrator in paying them. There are also certain provisions of the Probate Act 1857 to be considered. Sec. 77 pro-