

the property in the event of the death of Maria McMinn without issue, a circumstance also concealed from the Court and its officer the Master, and for the purpose of defrauding the Court and the infant, which the said defendant Kean and his wife, and the said Mary McMinn the plaintiff in that suit, colluded to effect.

37th. Because no day was given to the infant in Court by the decree of sale, nor was the cause ever heard or decided though pending for nearly twenty years before the purchase from Mary McMinn, and pending for seven years previous to her pretended purchase without any steps being taken, nor was there any proof of any debt being due or of any fact alleged in the Bill, and the decree of sale on the face thereof shows there was no evidence to bind the infant, and these and the other defects and void proceedings above referred to being so evident and palpable on the face of the papers that they could not have escaped discovery by the exercise of the ordinary care and diligence a purchaser is bound to exercise, and the Commissioners and the said Creelman, as well as the said Mary McMinn, must be charged with notice of such defects, errors and void proceedings, and, having or being chargeable with such notice, cannot protect themselves against the plaintiff's claim herein, then an infant.

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The plaintiff therefore humbly submits that the verdict or judgment of the learned Judge who tried this case and the judgment of the Supreme Court of Nova Scotia confirming it, should be set aside, and a new trial granted, for the following and other reasons :—

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1st. Because such verdict or judgment and the judgment of the Court confirming it are contrary to law and evidence.

2nd. Because such verdict or judgment should have been for the plaintiff and not for the defendant, and such verdict or judgment should have been set aside and not confirmed by the Court.

3rd. Because the papers in the McMinn and Tremain causes and the deeds and documents or many of them offered by the defendants and received in evidence, were improperly received on their behalf.

4th. Because the Court refused to hear the plaintiff or her Counsel on the rule nisi to set aside the verdict or judgment, except on an immaterial point, to which her Counsel was obliged to confine his argument as above set forth.

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5th. Because the papers in the Tremain and McMinn suits were received as evidence generally or for all purposes in this cause, though the plaintiff here was an infant defendant in said suits.

6th. Because in the judgment of the Court some of the papers so improperly received, and the recitals of the deed from Miss Tremain to Uniacke, and other recitals, were commented upon by the Court, and such recitals were used against the plaintiff, though she was neither a party or privy to the said deeds or either of them.

7th. Because deeds, papers and documents not evidence against the plaintiff were referred to and used by the Supreme Court to sustain their judgment.

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