

however, that supposing such a suit be maintainable, (and we have no concern with that question upon the present occasion,) it must partake of the nature of a creditor's suit, from which in fact it cannot in any material respect be distinguished. At the commencement of the suits, special injunctions were obtained restraining the judgment creditors, who were parties to them respectively, from proceeding upon their executions, and those injunctions have continued in force until the present time. The first suit was instituted against the personal representatives and four judgment creditors, and contemplated the satisfaction of *their* demands only. The second suit was instituted against the personal representatives and another judgment creditor, who was not embraced by the injunction granted in the first suit, and who, I presume, had obtained his judgment and issued and lodged his execution after that injunction had been issued. In the month of August, 1842, and some time after the commencement and during the pendency of both suits, certain lands, which were part of *William Crook's* estate and were subject to the executions of the judgment creditors at law, were sold by the plaintiff, through the medium of Mr. *Boulton*, his solicitor in the cause, and the purchase moneys were received by Mr. *Boulton*, with the exception of two sums of £12 10s. and £62 10s., which were received respectively by the heir-at-law and the personal representatives, and by one of the co-defendants, *Street*, a judgment creditor. The sums received by Mr. *Boulton* amounted to £412 10s. He prepared the conveyances to the purchasers. These sales occurred in the month of August, 1842, and the decree in the first suit was pronounced in September, in the same year.

The first suit was instituted in 1840, and the decree in it was obtained in 1842; the second suit was instituted in 1841, and the decree in it was not obtained until 1845. In 1844, which was after the decree in the first suit, but before that in the second, a transaction, purporting to be a sale, took place between the heir-at-law, the personal representatives, and *Ramsay Crooks*, one of the defendants to the first suit, and who is alleged to be a judgment creditor of *Wm. Crooks*, but whose claim is admitted to be subsequent, in

1849.

Crooks
v.
Crooks.

Judgment.