

I can find none in which it was held that a tenancy at will was such a leasehold.

It does not seem to have been the subject of any English or Ontario decision, and consequently there is no express authority.

Cyc. Vol. 17, 954 says: "The better rule seems to be that the interest which a tenant at will has in another's real estate is not such an interest in land as can be sold in execution." Of the cases cited in support of this, *Bigelow v. Finch* (1851), 11 Barb. N. Y. 498; *S. C.* (1853), 17 Barb. N. Y. 394; *Colvin v. Baker* (1848), 2 Barb. N. Y. 206, are upon a statute which says in so many words "estate at will or by sufferance shall be chattel interests, but shall not be liable as such to sale in execution." See *R. S., N. Y.*, 1852, part II. c. 1, art. 1, s. 5. *Waggoner v. Speck*, 3 Ohio (not Ohio State) 292 is not in point. *Willey v. Barnes* (1853), 26 Miss. 35, however does decide that the interest of "a tenant at sufferance . . . is not capable of transfer or transmission" 4 Kent 117, and "the sheriff's deed could convey no more than" . . . the tenant's "own deed could . . . which . . . could convey nothing."

Freeman on Executions, 3rd ed., s. 119, p. 495: "It is undoubtedly true as a legal proposition that a defendant having no estate in property which he can transfer has none which is subject to execution for the judgment the levy and the sale and execution ordinarily accomplish no other purpose than might have been realized by a transfer made by the defendant." Accordingly where the hiring, &c., amounts to a mere personal right or license, this is not exigible. *Reinmuller v. Skidmore*, 7 Lans. 16; *Williams v. McGrade*, 13 Minn. 174; *Kile v. Giebner*, 114 Pa. St. 381.

The same author sec. 177, says: "Copyhold estates and all other tenancies at will or by sufferance are not subject to execution." No authorities are quoted except those found in 17 Cyc., and already considered—the author proceeds: "The reason of this rule is apparent. An occupant by the permission and at the will of the owner has no estate which he can transfer by a voluntary conveyance, and no possession which can be regarded as independent of or adverse to that of the owner. Hence he has no interest in the title nor in the possession susceptible of transfer by execution."