

1849.

Crooks
v.
Crooks.

court, though to a certain extent incumbered by these illegal sales. At the same time I think I should have concurred to the full extent of his judgment with the learned Chancellor, had the present application been in a more complete form, and all the parties concerned properly brought before the court: had the petition in fact been so framed that the professional respondents would have had full warning of the extent to which relief, as against them, would or might have been sought. *Ramsay Crooks* and *William Crooks*, recipients of part of the proceeds of these sales, are as well as the solicitor and his agent liable to refund, and ought I conceive to have been before the court as respondents on the present occasion, together with the professional respondents, against whom alone the enquiry is pressed, without, I think, that special notice to which they might be reasonably entitled in a case so deeply affecting their professional character.

Judgment.

Therefore, while joining in utter disapprobation of the transactions now brought to light, and rejecting as totally untenable the solicitor's claim of lien for costs upon the purchase money arising out of these unauthorised sales, I feel that the ends of justice will not be jeopardised by allowing the payment into court to be immediately contingent upon the finding of the Master, if such finding should be warranted by the opinion of the creditors, that the adoption of these sales would, under the circumstances, be expedient.

ESTEN, V. C.—The material facts of this case are, that several judgment creditors of *William Crooks*, deceased, having executions against his lands in the hands of the sheriff, these suits were instituted by his heir-at-law against his personal representatives and the judgment creditors in question, for an injunction to restrain them from proceeding upon their judgments, until the estate could be applied in a due course of administration; that is to say, the personal estate in the first instance, and the lands only so far as the personal estate should be deficient. This appears to me to be a suit of a very extraordinary and novel character, and I doubt whether a precedent can be found for it. It is clear,

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