

1863.
Henderson
v.
Graves

In *Norris v. LeNeve*, (a) a case before Lord *Hardwicke*, in which the judgment was affirmed on appeal to the House of Lords, a trustee for a term of ten years, during the infancy of the *cestui que trust*, took a conveyance to himself of the reversion from the heir of the lessor for £30 only, the estate being worth £1500 per annum, Lord *Hardwicke* said, "it was a transaction extremely to be disapproved; " * * * "a counsel or agent," he said, "taking a conveyance from the right heir for his own benefit, and which he discovered by his being a trustee, does a very wrong thing;" but he refused to declare that the trustee held the reversion in trust for the infant. He thought "there was no ground to stand upon, for the making *Norris*, who had bought in the reversion, a trustee for a person who was only a tenant for life, and took nothing in the inheritance, would be going to far."

Judgment. This language of Lord *Hardwicke*, is, in this respect, not in point in the present case: that these defendants *Smith & Henderson* do not pretend that *Smith* took the conveyance from *Bridge* on his own account, though he paid for it with his own money. He did take it, they admit, in trust for the heir, and told *Bridge* that he would convey to the heir. There is therefore no question about there being a trust, for it is admitted. But the language of Lord *Hardwicke* is in point, that the plaintiff here had no interest in the inheritance, (not noticing at present the omission of the broken front from *Adam Graves'* conveyance,) and not being heir to the land, he has no substantial ground of complaint. All the parties concerned were in a common error in supposing that the heir of *Adam Graves*, whoever he might be, was the owner of this land, if indeed we can take so favourable a view of the conduct of the *Graves's* as to suppose them ignorant that *Adam Graves* had parted with his land in Pittsburgh. It was a large estate, and was probably his military grant, and must have been an object of interest to his wife and children. In cases of

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