

Case No. 17,911.

WISE v. RESLER.

[2 Cranch, C. C. 182.]¹

Circuit Court, District of Columbia.

Nov. Term, 1819.

ACTION BY EXECUTOR FOR RENT—ALIENAGE OF REAL PARTY.

In the year 1796, A. covenanted with B. to pay rent to the “heirs and assigns” of C. a citizen of the United States, who had died in the year 1785, having as his nearest of kin and heir at law, a sister who was then an alien, and a British subject, and who was born and always resided in Scotland; *held*, that the executor of B. might recover the rents against the executor of A. in an action of covenant for the use of the sister, notwithstanding her alienage.

The parties agreed upon a state of the facts, as follows:—Wise, in 1796, conveyed a lot of ground in Alexandria to Resler, in fee, rendering an annual rent, to be paid “to the heirs and assigns” of one John Adams, a citizen of the United States, who had died in the year 1785, leaving as his next of kin and heir at law, his sister Janette Barrett, who was an alien, born in Scotland, and who always resided there. The rent being in arrear, the executor of Wise brought this action of covenant against the executrix of Resler, to recover the rents for the use of Janette Barrett, the alien heir.

Mr. Swann, for defendant, contended that as this suit was brought for the use of Janette Barrett, her alienage was a bar, because she could not take real estate by descent, nor claim as heir at law.

Mr. N. Herbert, contra.

THE COURT (nem. con.) was of opinion that the plaintiff was entitled to recover.

Judgment for the plaintiff.

[See Case No. 17,912.]

¹ [Reported by Hon. William Cranch, Chief Judge.]