

Md.)

KENT BLDG. & LOAN CO. v. MIDDLETON.

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told Mr. Longerbeam that, if he did not come up and comply with the terms of the sale, I would immediately get an order of the court authorizing a resale of the property at his risk, and subsequent to that conversation he came over and complied with the terms of sale by paying \$1,000; the balance to be on day of ratification. I was compelled to do this because I thought I had exhausted the power contained in the mortgage and might make myself responsible if I failed to get the sanction of the court. Q. Can you state how far the proceeds of sale will go toward satisfying the liens against this property? A. I could not exactly. It would take all I think to satisfy the liens at the present time I think. I worked harder at that sale than any other sale before in my life, and this I did on account of my personal friendship towards Mr. McCarty and his wife. Q. I suppose in your 20 years practicing at the bar you have had plenty of experience in regard to judicial sales? A. I have been at the bar over 35 years, and have had some experience with sales."

We are convinced, upon a careful examination of the whole case, that Mr. Gordon acted in the utmost good faith in making this sale, and there being no just ground to doubt the propriety of the sale, and there being no valid objections against it, the decree of the court below, overruling the exceptions, and ratifying and confirming the sale, will be affirmed. The costs in the court below to be paid as directed by the decree; the costs in this court to be paid by the appellants.

Decree affirmed; costs in the court below to be paid out of the fund in the hands of the attorney, and the costs in this court to be paid by the appellants.

KENT BLDG. & LOAN CO. v. MIDDLETON.
et al.

(Court of Appeals of Maryland. Jan. 11, 1910.)

1. JUSTICES OF THE PEACE (§ 129*)—JUDGMENT—IRREGULARITIES—REMEDY.

Where defendant in a suit before a justice of the peace has been summoned, and the justice has acquired jurisdiction of the cause, the only remedy for subsequent irregularities is by appeal.

[Ed. Note.—For other cases, see Justices of the Peace, Cent. Dig. §§ 408-411; Dec. Dig. § 129.*]

2. MORTGAGES (§ 594*)—FORECLOSURE—RIGHT TO REDEEM—JUDGMENT CREDITOR.

Execution and delivery of a sheriff's deed to a judgment creditor pursuant to a sale of real property on a justice's judgment, duly recorded, was evidence of a sale of the property to a judgment creditor, though the deed was not recorded, and of his right to redeem from a mortgage on the property.

[Ed. Note.—For other cases, see Mortgages, Dec. Dig. § 594.*]

3. MORTGAGES (§ 605*)—REDEMPTION—TENDER.

The attorney for a purchaser of land on execution wrote to the mortgagee asking for a

statement of the mortgage, stating, "I will pay the same off pending arrangements," and, on the day following the receipt of the statement of the amount due, wrote the mortgagee, "Herewith inclosed, I hand you check for \$177.05 of the mortgage," of M., etc., and asking an assignment of the mortgage and that it be not released. Held, that the tender was effectual, and not rendered conditional by the request that the mortgage be assigned and not released.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 1788-1794; Dec. Dig. § 605.*]

4. MORTGAGES (§ 605*)—REDEMPTION—ASSIGNMENTS.

Where a person having an interest in the equity of redemption of mortgaged premises, or a lien creditor of the mortgagor makes an unconditional tender to the mortgagee of the amount then due on the mortgage, together with any costs properly incurred, with a request for an assignment of the mortgage, it is the duty of the mortgagee, if there is any reason why the mortgage cannot be assigned, to accept the money without insisting on a release thereof.

[Ed. Note.—For other cases, see Mortgages, Dec. Dig. § 605.*]

5. MORTGAGES (§ 526*)—FORECLOSURE—SALE—CONFIRMATION—OBJECTIONS.

Where a purchaser of mortgaged premises on execution tendered to the mortgagee the full amount then due on the mortgage in order to redeem, the mortgagee had no right to refuse the tender and institute foreclosure proceedings, and hence redemptioner was entitled to except to the confirmation of the foreclosure sale under Code Pub. Gen. Laws 1904, art. 66, § 9, providing that all sales under a mortgage shall be reported to the court, which shall have power to determine any objections filed against it by any person interested therein.

[Ed. Note.—For other cases, see Mortgages, Dec. Dig. § 526.*]

Appeal from Circuit Court, Kent County; James A. Pearce, Judge.

Suit by the Kent Building & Loan Company against Jesse K. Middleton and others. A sale of real estate under foreclosure decree having been made, Charles B. Watkins, a judgment creditor, filed exceptions to the redemption of the sale, and, from an order setting aside the sale and allowing Watkins 30 days to redeem, the building and loan company appeals. Affirmed.

Argued before BOYD, C. J., and BURKE, SCHMUCKER, and THOMAS, JJ.

John D. Urie, for appellant. Hope H. Barroll, for appellees.

THOMAS, J. On the 28th of February, 1903, Jesse K. Middleton, of Kent county, with his wife, Hester E. Middleton, executed and delivered to the Kent Building & Loan Company, of Chestertown, Md., a mortgage on his property situated in said county to secure a loan of \$500 from the company. On the 23d of December, 1904, Charles B. Watkins recovered a judgment of a justice of the peace against him for \$58.26, which was recorded January 16, 1905, and on April 17, 1905, a judgment was obtained against him for \$155.15 by Josiah C. Armiger. Execution was issued June 22, 1906, on the Watkins judgment, and the

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes