

complainant would have proceeded to execute his judgment at law, but was restrained by an injunction granted by this court, upon a bill filed by Price, the defendant, which was not dissolved until the conclusion of the March term, 1846—that Price having died, leaving a will sufficient to pass real estate, and his personal estate in the hands of his executors being insufficient to pay his debts, a sale of the real, in the hands of his devisees, is prayed for.

The answer of such of the defendants as are of age, to this bill, insists, that the judgment of the condemnation against Hyland Price in 1822, was the result of an agreement between him and the complainant, by which it was stipulated that payment thereof would not be enforced unless such payment would operate as a discharge of a bond which Price, the defendant, had given to one Philemon C. Blake, for his interest in certain real estate, upon which the said Davidson alleged he had a mortgage—that Davidson had in fact no claim to the mortgage in his individual capacity; the same, if in his possession at all, being held by him as administrator of his father James Davidson, to whom it had been given by Blake—that the bond which Hyland Price had given Blake, had passed into the hands of other parties, by whom, under the circumstances stated in the answer, a decree by the court was obtained for the payment thereof; and the answer begs leave, at the trial of this case, to refer to the proceedings in the injunction cause, and also the cause in which the said decree was passed.

The injunction bill by Hyland Price, was filed on the 14th of January, 1830. He died in the year 1842, and his executors having become parties, the answer of Little was filed on the 10th of December, 1845, and a motion then made by him to dissolve the injunction, which was accordingly dissolved by the Chancellor's order of the 27th of April, 1846; and on the 5th of June following, the complainants in that cause prayed an appeal to the Court of Appeals, where it is still depending.

The prayer of this bill thus filed by Price, is for an injunction to be directed to the said Little, commanding and enjoining him to cease from all proceedings on the judgment afore-