

was filed, and before the complainants had any interest in the mortgage. That respondent had improved the lot containing the one acre and a half, at much expense as a homestead, and that though he and Shipley, the assignor of one of the lots, have been in the possession of them for a great number of years, their title, until very recently, has never been questioned by any one. That in the confidence of his undoubted right to an undisturbed possession of the two lots, the respondent has gone on to cultivate the same, and that at this time, all his substance is growing thereon, so that his immediate removal therefrom would utterly ruin him and a large family.

The answer further states, that at November term, 1846, of Baltimore County Court, the petitioner, Thomas, instituted against the respondent an action for an alleged trespass upon said lands, which suit, owing to the default of the petitioner, has not been tried, and that the same has been continued until the next November term, upon his application for a warrant of resurvey, which, however, he, the petitioner, has not had executed. The answer does not admit that the lands occupied by the respondent are included in the mortgage to the complainant, or that they were purchased by the petitioner, but that as the lease from Caton to Shipley, and the assignment by the latter to the respondent, gave him an equitable title, he should have been made a party to the original bill. Upon a survey, ordered by the court, it did appear that the lands held by the respondent were included in the mortgage from Caton to Colt, and were included in the purchase by the petitioner at the sale made by the trustee in this case, and the question which is presented by this state of facts, and which has been argued by the counsel, is, whether the petitioner is, under the circumstances of this case, entitled to the interposition of the court in his favor, in this summary form.

That the court has the power in a proper case to put the purchaser of lands under its decrees in possession, by an order passed in a proceeding similar to the present, is clearly established, such an authority being deemed indispensable to the full and complete administration of justice; and the question