

law which forbids that; because of the strong temptation to fraud, where there is such a conflict of duty and interest; and because one man should not be permitted to take advantage of the necessities of another, is not infringed by allowing a plaintiff, a creditor, or a mortgagee to purchase at a sheriff's sale, or at a sale made by a trustee of this court; as, in such case, the party is proceeding adversely against his debtor, not by any private dealing, but by the public process of the law, in which he himself is not the seller, but an impartial executive officer or agent of the court. (e) With regard to the discount asked for, it is certain, that the trustee, appointed by the decree to make the sale, can dispose of the purchase money in no way, without the express authority of the court. (f) But, as the mortgage debt, the recovery of which is the sole object of this suit, has been established by the decree for a sale, there can be no impropriety, after first deducting the commissions, expenses and costs, in ordering the proceeds to be, at once, applied in satisfaction of that debt, by discount with the mortgagee as purchaser, or in any other way. And *Elizabeth Murdock* having failed to comply with the terms of the contract of sale, *William Brewer*, the plaintiff and mortgagee, must be received as the purchaser, and be allowed the discount as prayed accordingly.

Therefore, it is *Ordered*, that the sale to *Elizabeth Murdock* be and the same is hereby rescinded; and the petitioner *William Brewer* be, and he is hereby deemed, taken, and in all respects to be considered as the purchaser of the property in the proceedings mentioned. And the trustee is directed, on the payment by him of all the costs and commissions of this suit, to discount the balance of the amount of the purchase money from the amount of the said *William Brewer's* claim.

After which *William Brewer*, by petition, stated that he had complied with the order of the 9th of February, and therefore prayed to have the possession of the property of which he had so become the purchaser, delivered to him.

11th March, 1829.—BLAND, Chancellor.—*Ordered*, that the said *Elizabeth Murdock* forthwith deliver possession of the property in the petition mentioned to the said *William Brewer*, or shew good cause to the contrary on the 28th instant; provided,

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(e) *Stratford v. Twynam*, 4 Cond. Cha. Rep. 193.—(f) *Bennett v. Hamill*, 2 Scho. & Lefr. 581.