

of the 14th of June 1859 conveyed all his Real and Personal Estate in Frederick County to the Defendant in this case Thomas Johnson the Real Estate consisting of a farm called "Harmony Grove" William Cost Johnson died in 1800 and for several years prior to his death and up to April 1868 the Plaintiff Edmund H. Johnson occupied the farm and after the death of his Uncle William Cost Johnson he set up claim to the right of possession of the farm in respect of some pecuniary claims against his Uncle and also against his sister the Defendant who demanded possession of the farm by virtue of her title under the deed of the 14th of June 1859, the Defendant had advertised the farm for sale on the 21st of March 1868 and the Plaintiff filed his bill in Equity in the Circuit Court for Frederick County for an injunction to restrain such sale and for a decree that the Land be sold under the direction of the Court for the satisfaction of his claim in this state of contention in regard to the farm the Plaintiff and Defendant entered into the agreement of the 6th of April 1868 under their respective hands and seals, by this agreement the defendant promised and obligated himself to pay to the Plaintiff the sum of Two Thousand five hundred dollars in full satisfaction of all claims or demands whatever against him the Defendant such sum to be paid in a specified manner namely: Five hundred dollars on or before the expiration of thirty days from the date of the agreement.

One thousand dollars out of the first payment made on the sale of the farm "Harmony Grove" and the other thousand dollars out of the second payment on said farm. The Plaintiff on his part promised to give up and surrender to the Defendant the immediate possession of the farm and also all the Personal Property held by him which had belonged to the late William Cost Johnson with certain specified exceptions, this covenant on the part of the Plaintiff has been performed but the Defendant has only paid the first installment of Five hundred dollars of the sum agreed to be paid by him and has wholly neglected or failed to pay the other Two thousand dollars and has neglected or refused to sell the farm to raise the fund with which to discharge his obligation, It is on these facts that the Plaintiff has filed his bill in this case asking an enforcement of the Defendant's covenant as a charge or lien on the Land and in that view praying that the farm be decreed to be sold to raise the fund to pay off the amount due from the Defendant on his covenant, The Court below decreed in favor of the Plaintiff and the first and most material question on this appeal is whether the covenant creates a charge or lien in the sense of a Court of Equity that can be enforced in the manner contemplated by the Plaintiff's bill. It is objected that the covenant creates only a personal obligation on the Defendant and that consequently there is no jurisdiction in a Court of Equity to take cognizance of the case, if this were a mere personal covenant and nothing more the objection just stated would certainly be well founded, but that is not our conclusion as to the nature of the covenant. That the covenant does create a personal obligation on the Defendant is doubtless true and one that could be sued on at Law but it does not necessarily follow from that being so that there may not be also an equitable Lien or charge created at the same time, the covenant does not as may be observed stipulate in express terms that the Land shall and the proceeds of sale applied to the discharge of this particular debt, but we think that is the fair and reasonable implication from the terms employed, in a case like