

No. 1848 Equity.

the premises to be passed upon by your Honorable Court, and this Respondent further answering insists that as Administrator Pendente Lite of Mr. Leather late of Montgomery Co. died he had full capacity and authority to make said sale.

And Respondent prays to be hence dismissed &c.

Wm. P. Mansley Jr.
Sol. for Respondent.

Filed Jan 29, 1853

Andrew J. Tabler Adm:
Pendente Lite of the goods of
Michael Leather deceased

No. 1848 Equity
In the Circuit Court for Frederick County
as a Court of Equity.
December Term, 1852

Michael Leather, at the time of his death, held a Mortgage of \$11300 on the real estate of Philip Culler in said County. He left a paper writing purporting to be his last will and testament, to the probate of which a caveat has been filed, and which is still pending.

Court's Opinion
and order rat-
ifying sale

The said Andrew J. Tabler has been appointed Administrator pendente lite, to take charge of the personal estate of said deceased during said litigation. The Mortgage being overdue, and containing a power of sale to said Mortgagee, his personal representatives and assigns, the said Andrew J. Tabler after complying with the provisions of the Code, and the terms of said Mortgage, sold the land mentioned therein, to one William L. Culler, for the sum of \$2085.

The sale after due process, was ratified without objection; but the said Culler having been informed that said Administrator had no power under the law to sell the land, petitioned the Court to strike out said order of ratification, during the Term at which it was filed; with the consent of the Administrator, the order of ratification was stricken out, to enable the said purchaser to file objections to the ratification of said sale. The said purchaser then filed his objections, alleging; first: "that the Administrator had no right to sell said estate;" second: "that said Administrator cannot give a good and sufficient deed for the real estate sold to him". These objections have been argued by the solicitors for the respective parties; and the only question raised is, had the Administrator pendente lite, the right and power to sell the land in question, to foreclose the Mortgage?

The authority of an administrator pendente lite, merely extends to the collecting of the assets and preserving them, and not to invest or distribute them. Redfield on Wills, 2 part - page 96.

An Administrator pendente, is unquestionably entitled, and is bound to collect and possess himself of the effects of the deceased, it being now settled whatever doubts may formerly have been entertained, that he may maintain rents for debt due the deceased, and bring ejectment for leasehold estate against the heirs or next of kin.

The powers of these temporary Administrators, with the exception of the authority of selling the goods of the deceased, are said to be co-extensive in all respects with the general administrator. In Re. Rachel Calin, 3. Md. Ch. Dec. 295.

The power to sell, given in a Mortgage, to the Mortgagee, his heirs or assigns, is a power coupled with an interest in the estate, and will pass to anyone who comes to