

No. 4848 Equity

the estate under the Mortgage, whether he be an assignee in fact or in law."

"Article 64, Sec. 211, of the Code provides that on the death of a Mortgagor of lands his interest and estate in the mortgaged premises together with the debt secured by the Mortgage, shall devolve on, and invest in his executor or Administrator"

"The appellee (Administrator) therefore, upon the death of John Orendoff" (Mortgagor), became by operation of law, the assignee of the estate in the land, as also of the debt, mentioned in the Mortgage, and could rightfully execute the power of sale, conferred upon the Mortgagor or his assignee." Hammickell @

Orendoff 35, Md. 343.

Courts Opinion
And order rat-
ifying sale.

Under the circumstances of this case it seems to have been the duty of the Administrator pendente lite, to foreclose the Mortgage for the benefit of the estate. It is admitted by the parties, that the land was largely insufficient to pay the Mortgage debt, and hence it became necessary to sell the property, before any further depreciation in its value might occur.

I am authorized to state that Chief Justice Ritchie, who heard the argument in this cause, concurs in the conclusion I have reached in the foregoing opinion; that is, that the Administrator pendente lite, had the right and power to foreclose the Mortgage, and can execute a good deed for the land.

It is therefore, this 31st day of January, A. D. 1883, by the Circuit Court for Frederick County, as a Court of Equity, and by the Authority thereof, adjudged and decreed that the exceptions filed in this cause, be, and the same are hereby overruled, and it is further ordered and decreed that the sale made and reported, and filed in this case on the 7th day of December A. D. 1882, be, and the same is hereby ratified and confirmed.

Filed January 31, 1883

John A. Lynch
Judge of the Circuit