

No 5259 Equity

and wife that the said deed should take effect for the purposes set forth in said deed of Trust, on and from the said 12th day of November, 1886, the day of its execution by them, as aforesaid

A. B. Montz

Subscribed and sworn to before me this 31st day of March, A.D. 1887.

W. Irving Parsons

clerk of the Circuit Court for Frederick Co.

John McGill and Samuel McGill, trustees for the heirs of Thomas J. McGill, decd

No. 5259 Equity Docket

In the Circuit Court for Frederick County, sitting as a Court of Equity

Trustees Report of Sale

Petition

Court's Opinion on Petition of Milton H. Uner in relation to sale to him

Since the filing of the Report of the said Trustees of the sale to Milton H. Uner of the house and lot situated in Frederick City, Md. of which the late Dr. Thomas J. McGill, died, seized and possessed, the said Milton H. Uner has filed his petition submitting to the Court whether upon certain facts set forth by him, relating to the execution of the deed of Trust empowering said Trustees to sell, the said Trustees can convey to him a fee simple title to the said property as they had undertaken in their agreement of sale with him to do. The facts alleged are in substance, that while Mrs. Arabella Montz, one of the heirs at law of Thomas J. McGill, with her husband A. B. Montz, executed and acknowledged the said deed of Trust before the Agreement of sale was made by and between said trustees living distant from the said Arabella Montz, did not unite in the execution of said deed of trust until a subsequent date and that before they had joined in said deed and prior to the execution of their bond by the said Trustees, the said Arabella departed this life. There is nothing in the deed to show that any right to revoke it was reserved by said Arabella Montz and her husband, or that its conveyance of their interest in the property for the purposes of sale in any contingency to be qualified or suspended, and even if there were any implied understanding that said deed should become operative only upon joinder therein of the other heirs at law, as all the heirs at law and parties in interest did subsequently unite in it, there was no failure of the supposed condition upon which Mrs. Montz and her husband conveyed their interest in the property, and the sale made and reported by the Trustees was but the fulfillment of the common object and purpose of the deed contemplated by all the parties thereto.

The Court is therefore of opinion that the operation of the deed of trust to convey the interest of said Arabella & A. B. Montz has been in no wise affected by the death of the former; and we are further of opinion that an approved bond having been filed by the Trustees, and by virtue of Section 17 of Article 24, Rev. Code, said deed of trust became operative from the day of its date.

Perceiving no ground in the Matters & Things stated in the Petition of said Milton H. Uner, why the said sale should not