

No 7592 Equity

the very condition existed in keeping alive of the power of Sale
It was still to be exercised if the necessity arose and although the
offer may have been rightfully made. Still if it was subsequently
waived, the exercise of the power by the party holding the Mortgage
would be valid. In the present case the exceptant did not resort to a
Court of Chancery for the purpose of preventing the Sale being made
but he permitted it to go on. Now suppose he had come into this Court
by a Bill for an injunction to stop the Sale, would he not have been
bound to not only allege the former tender, but in addition his Duties
-and readiness to pay the amount tendered, with proffer to bring the
Money into Court so that it could be paid over to the owners of the
Mortgage. If he had not done that his Bill would have been defeated
and the relief prayed for would not have been granted.

Columbia Building Association vs. Crump et al. Md. 1902
The stated proposition is presented here that because a Conditional
tender was made and refused that such tender had the effect
of effectually, and for all time paralyzing the power of Sale in
the hands of Mrs Michael. The adoption of such a proposition
would be very disastrous in its consequences.

I do not apprehend that such is the law. If the exceptant
desired to prevent the consummation of the Sale by its ratification
It seems to me that he is in duty bound to do exactly what
he would be required to do if he had adopted the other course,
and filed a Bill to redeem and prevent a sale by an injunc-
-tion. But this was not done, and in my judgment he has
waived any advantage he might have had by virtue of his
tender. Considering the tender to have been a valid one

Under the authorities in this State a power of Sale in
a mortgage is a valuable right: it is a part of the security
itself, and is coupled with an interest.

Berry vs. Sherman 30 Md. 567.

Now under the terms of the mortgage in question, on the assign-
-ment of the mortgage. This valuable right passed to and vested in
the assignee

Article 21 Sec. 33 1st Vol. Code of Public General Laws

Daniels vs. Homer 78 Md. 253.

It is a right founded in Contract. On the assignment of the Mortgage
that right then vested in Mrs Michael and the mortgage being over-
-due it could be executed by her at any time she saw proper

Touching the question of his right as an heir at law of
the Mortgagor, it appears that he only had an interest in a dry
legal title. Instructed out of the proposition that the fee must
rest some place. The will provided for a Sale by the Executor
It can hardly be contended that such a title gave him any
Substantial interest to protect. If he stands upon his position
as an heir at law, and claims that because of that rela-
-tionship with the Mortgagor, and the substantial interest