

No. 10249 Equity,

The Aforegoing Petition having been read and Considered, It is thereupon this 14th, day of February, in the year 1921, by the Circuit Court for Frederick County, Sitting as A Court of Equity and by the Authority thereof, adjudged and Decreed, that the said Mary J, R, Boyer and Albert A, Boyer Executrix and Executor under the last will and testament of Columbus Boyer be, and they are hereby made parties defendan to these proceedings,

Glenn H, Worthington,

Answer of Mary J, R, Boyer and Albert A, Boyer, Executrix and Executor parties Defendants,

Mary J, R, Boyer, Widow, et al., Vs, William E, Boyer, and Salome Boyer, his wife, et al., No. 10249 Equity, In the Circuit Court for Frederick County, in Equity,

The answer of Mary J, R, Boyer and Albert A, Boyer, Executrix and Executor of the last will and Testament of columbus Boyer, deceased, States,

That they admit that they are Executrix and Executor of the last Will and Testament of of Columbus Boyer deceased, ans also admit that there is no power of sale contained in said will to said Executrix and Executor as to the other allegations contained in the Bill of Complaint they admit the same to be true and consent to the passage of the Decree as prayed,

Chas, McMathias,

Solicitor for Mary J, R, Boyer and Albert A, Boyer, Executrix and Executor of the last will and Testament of Columbus Boyer, deceased,

Opinion and Order of Court overruling demurer to Bill of Complaint,

Mary J, R, Boyer, Widow, et al., vs, Wm, E, Boyer, et al., No. 10249, Equity, In the Circuit Court for Frederick County Sitting as a Court of Equity,

OPINION AND DECREE,

In this cause the bill of Complaint, was filed to Obtain a decree, for the sale of Certain Real Estate, located in Frederick County, of which a certain Columbus Boyer died seized and possessed,

The Answer of some of the Defendants admit the allegations of the Bill of Complaint and consent to a decree as therein prayed, Other of the Defendants, question the jurisdiction of the Court to pass a decree for the sale, of the pro property, on the ground principally that by the last will and testament of the decedent direction was given his Executors to sell the property after the death of his Widow, and that thereby a conversion from realty into personal property, was worked and that none other than the executors have any outhority, to sell and that, that authority is suspended until the death of the widow,

In Munday's case 90-Md, 701, --704, a situation similar that existing in this case, was presented to the Orphans Court, so far as the status of the real estate, is involved, and the Court of Appeals there said it was not a case for the Orphan's Court, but for a Court of Equity, to deal with, This case being in Equity, I Appreh end, that if the proper parties are made and proper allegations of the reasons for asking for a decree are set forth, this Court has jurisdiction, I have therefore suggested that the persons named as Executrix and Executors in the last will and Testament of Columbus Boyer be made parties and when that is done i am of opinion the bill of Complaint will amply give jurisdiction to this Court, both as to the