

been made, By Mr Edward H. Rau, to pay \$20,000 for the farm, his written proposal to that effect having been filed, in the case, accompanied by a deposit of \$2000.00 as a pledge of Compliance with any terms the Court may consider proper to be imposed, the Question is whether in View of this higher offer, the Contract of sale, previously made, on behalf of the Infant heirs, should be Confirmed,

The Jurisdiction of the Court to act, in such a case is conferred by Section 157 of Article 16, of the code, which provides, that when land is owned by tenants in common, or joint tenants, and if any Contract hath been made for the sale of any lands, ----held as aforesaid---for or on behalf of any infant, ----which the Court upon hearing aforesaid and Examination into all the Circumstances, shall think for the interest and advantage both of such Infant --- and of the Other person or persons, interested therein, to be confirmed the Court may confirm such Contract, ---- according to the plain intent of this provision, the Court is not Justified in Confirming a Contract of sale made on behalf of Infant Owners, of land unless it believes that under all the Circumstances, such action would be to their interest and advantage. The inquiry which the law requires in such a case, is not simply whether, the contract was made in good faith, and under fair Conditions, but Whether its Confirmation would be advantageous to the infants Interests.

The Contract of sale was made with the understanding, that it could not be effective unless confirmed by the court, It was simply a conditional contract It was made subject to the contingency and result of a subsequent, judicial investigation, as to whether it was for the benefit of the Infant heirs, that it should be Confirmed, " under all the Circumstances" The fact that \$20,000 may be realized from the property is a circumstance which I do not feel at liberty to Ignore, It is a very important fact to be considered upon the question as to whether the interests of the infants would be served by the acceptance of the earlier and lower offer, Manifestly it would no be to their interests, and advantage for the farm to be sold, for \$1000, less than a price actually obtainable, if the lower price should be accepted, notwithstanding the higher offer, It could not be on the ground that this would be for the benefit of the infants, but only, on the theory that the conditional purchaser had acquired a right under the contract of sale, to which the Infants real interests could be Justly made to yield, There is no basis on which to found such a theory, Neither the Court, nor the Infants, were committed to the said to the sale now sought to be confirmed, and, as already stated, it was contingent, upon the judicial inquiry, and decision which the law requires because of the Infants incapacity, It is the duty and disposition of the Court to give due consideration to the interest of the conditional Vendee, but the interests of the Infants must be of paramount concern in a proceeding of this nature, in View of the fact that the infant heirs would loose the benefit of a much higher available price for the farm if the contract of sale mentioned in the Petition is Confirmed, It is Clear that their interests, would not be promoted by such action, but while I do not feel Justified under the circumstances in confirming the contract of sale made with Mr. Wertheimer on behalf of the infant heirs, I think he is entitled to have an opportunity, if he so desires, to bid against the higher offer which has been submitted, I shall therefore make provision that he be afforded such an opportunity, an Order will be passed providing for the submission in Writing by Mr. Wertheimer and Mr. Rau within a specified period, of any further offers above the sum of \$20,000, which they may desire to make, for the property, and that in the meantime the offer of \$20,000, made by Mr. Rau, be held subject to acceptance in the event that no higher offer is received under the terms of the order, This Course is rendered the more feasible by the attitude of the Adult heirs, who through their counsel submitted the case to the Court, in such action, as it might determine, to be proper and by the statement of Counsel for Mr. Rau, in open Court that he is entitled to have his offer made the basis for further bidding, It is accordingly adjudged, and Ordered by the Circuit Court, for Frederick County, In Equity, this 28th day of July A.D. 1919, that, pending a final Order or decree, an opportunity is hereby provided for the filing in this proceedings of Additional Offers, in excess of \$20,000 for the purchase of the farm mentioned in the petition, within a period of ten days, from the date of this order and that meanwhile the Offer of \$20,000 made by Edward H. Rau, be held, and his deposit of \$2000, be retained, subject to the acceptance of said offer, if the Court should so determine,

Hammond Urner,

Filed July 28th, 1919,

Offer Of Charles Wertheimer,

A. Ruth Steckman, et al.,
vs.
Olive Grove and Virginia
Grove, Infants,

(No. 9964, Equity, In The Circuit Court for Frederick
County, In Equity.)

To the Honorable Judges of said Court, In accordance with the Order passed in the above cause, on July 28th, 1919, the undersigned hereby offers, the sum of twenty One Thousand Dollars, for the purchase of the farm mentioned in these proceedings, and as an evidence of good faith, there is also herewith delivered to the Clerk of this Court, a Certified Check for the sum of Three Thousand Dollars, (\$3000.00) properly endorsed to the order of Eli G. Haugh, Clerk,

This Offer is made without prejudice to the rights, of the undersigned, in the premises, in the event same is rejected,

Chas. Wertheimer,