

ner as he is bound to account for sales of personal estate; and such sale is not to be valid unless ratified by the Orphans Court after notice,²⁶ as in cases of sales of real estate by a Court of equity, and his bond is to be answerable as if it were personal estate, and provision is made for the substitution as purchaser of the assignee of the purchaser; and with respect to sales of real estate under the direction of the Orphans Court, where the executor appointed by the will dies or declines to act,²⁷ and

The Orphans Court has no jurisdiction to order a sale of real estate devised to testator's widow for life and after her death to be sold by the executor, on *ex parte* application of the widow alleging that such sale would be to the benefit and advantage of all parties. *Snook v. Munday*, 90 Md. 701. Cf. *Thom v. Thom*, 101 Md. 444. When the real estate is not devised to or vested in the executor but he is given a mere naked power of sale to pay legacies, the freehold in the meantime descends to the heirs at law who are entitled to the profits thereof until sale is made. *Seeger v. Leakin*, 76 Md. 500.

Where testator directs real estate to be sold and the proceeds distributed by his executor, the latter has an implied power to sell. *Ogle v. Reynolds*, 75 Md. 145; *Porterfield v. Porterfield*, 85 Md. 666. Where a will is admitted to probate in common form without contest, a sale of real estate by the executor under testamentary power is valid under Code 1911, Art. 93, sec. 36, though a *caveat* may have been filed before the ratification of the sale. *Pacy v. Cosgrove*, 113 Md. 315. Cf. *Seldner v. McCreery*, 75 Md. 287; *Emmert v. Stouffer*, 64 Md. 543.

The executor of a non-resident testator is not required to report a sale of land in Maryland to the Orphans Court of the county in which the land lies. *Smith v. Montgomery*, 75 Md. 138. Cf. *Norment v. Brydon*, 44 Md. 112; *Lindsay v. Wilson*, 103 Md. 268.

A power of sale given to an executor over real estate does not cease with the settlement of the personal estate. *Hoffman v. Hoffman*, 66 Md. 568. An unauthorized sale by an executor does not deprive him of other powers over the proceeds of sale when they come into his hands. *Roberts v. Roberts*, 71 Md. 1. An executor who is directed to sell and hold the proceeds in trust is entitled to appeal from an order of the Orphans Court setting aside a sale made and reported by him. *Warehime v. Graf*, 83 Md. 98.

²⁶ Under the Act of 1900, ch. 74, (Code 1911, Art. 93, sec. 300), a sale of real or leasehold property may be immediately ratified by the Orphans Court if all parties in interest are *sui juris* and give their consent to such immediate ratification.

²⁷ Code 1911, Art. 93, sec. 291. The jurisdiction of the Orphans Court under this section, as under sec. 290, was given to save the expense of a chancery proceeding and is not exclusive. An administrator *d. b. n. c. t. a.* appointed by the court thereunder may still, if he chooses, invoke the aid of a court of equity and administer his trust under its supervisory powers. *Snook v. Munday*, 90 Md. 701; *Keplinger v. Maccubbin*, 58 Md. 203; *Venable v. Mercantile Trust Co.*, 74 Md. 187; *Wright v. Williams*, 93 Md. 69.