

DEAVER *v.* REYNOLDS.

PURCHASER AT A CHANCERY SALE DISCHARGED.

Where a person, who had allowed himself to be reported by the trustee as the highest bidder, without any design to baffle the proceedings of the Court, stated, that he was unable to comply with the terms of the sale, he was discharged on payment of costs only, without having the property resold at his risk. (a)

This bill was filed on the 29th July, 1824, by James Deaver and Eliza his wife, against Lewis Reynolds, Allen Reynolds, and others, the heirs of the late Tobias Reynolds, to obtain a partition among them of the real estate of which he had died seized. The defendants answered; and on the 30th of March, 1825, a decree was passed, directing the estate to be sold for the purpose of effecting a division of its value, as it was incapable of a specific partition. The trustee reported, that he had made a sale as directed; and that Lewis Reynolds was the purchaser. Upon which an order was passed, that the sale should be ratified unless cause were shewn to the contrary on or before the 7th of July, 1825.

After which the trustee reported, that the purchaser had neglected to give bond and comply with the terms of sale; upon which he submitted the matter to the consideration of the Chancellor. And at the same time Lewis Reynolds, the purchaser, by a note in writing, stated, that it was entirely out of his power to comply with the terms of the sale; and therefore prayed, that it might be set aside.

BLAND, C., 28th July, 1825.—It is not alleged, nor is it shewn, that there has been any design to baffle the proceedings of the Court, or to obtain any undue advantage by this bidder. He seems to have had a fair intention to purchase, but has either been

51 * disappointed in his means, or has not had the ability to make the purchase, which he had calculated upon. *Hodder v. Ruffin*, 1 Ves. & B. 544. I shall not, therefore, order the estate to be resold at his risk, or charge him with interest on the amount of the purchase money as a penalty for the disappointment he has occasioned. Yet, as he has, by this abortive attempt to purchase, put the case to much expense, it is but just, that he alone should be charged with it.

(a) As to remedies against a purchaser at a sale under a decree who fails to comply with the terms of sale, see *Anderson v. Foulke*, 2 H. & G. 346, note; *Richardson v. Jones*, 3 G. & J. 164, note; Rev. Code, Art. 66, sec. 6.