

A distributee can be allowed nothing until all sums for which he is liable as principal or surety have been paid; and his assignee takes subject to all equities to which he is liable.

On a purchaser failing to pay the purchase money, the land may be resold at his risk under the Court's equitable lien. (b)

This bill was filed on the 4th of December, 1812, by Benjamin H. Mullikin, Richard D. Mullikin, Basil D. Mullikin, Jacob F. Waters, Basil Duckett and Sophia his wife, Margaret Mullikin, Ann Mullikin, and Kitty Mullikin, against Regnal Mullikin, Baruch Mullikin, John Waters, Ann Maria Waters, and Rachel Waters, all of whom were minors. The bill states, that Belt Mullikin had died intestate seized of a large real estate which had descended to his children the plaintiffs Benjamin, Richard, Basil D. Mullikin, Sophia, Margaret, Ann, and Kitty, who were of full age, and to his children the infant defendants Regnal and Baruch; and to his grandchildren, the infant defendants, John, Ann Maria, and Rachel, who were the children of the intestate's late daughter Martha H. Waters who had been the wife of the plaintiff Jacob F. Waters; that it would be for the benefit of all the representatives of the intestate to have the land sold, in order to make division of the proceeds thereof; but that a sale could not be effected without the interposition of this Court. Whereupon the plaintiffs prayed, that a sale might be made; and that they might have such other relief as the nature of their case might require.

The defendants Regnal and Baruch having attained their full age, since the filing of the bill, put in their answer on the 6th of January, 1817, and consented to a sale as prayed. And the other defendants, who were still under age, answered by guardian and admitted, that a sale should be made as prayed.

Upon which on the 8th of January, 1817, a decree was passed in the usual form, appointing Jonathan Meredith trustee to make the sale; who, with his own consent, was on the 10th of March following removed, and Basil D. Mullikin appointed in his stead. After which this trustee, having given bond with Baruch Mullikin and Regnal Mullikin as his sureties, on the 4th of April, 1821, filed his report, in which he states, that he had on the 5th of *
539 December, 1817, sold a part of the estate to Benjamin H. Mullikin for the sum of \$5,163.75; that on the 19th of October, 1819, he had sold the residue of the estate to Edward E. Anderson, for the sum of \$3,000; that he had received a payment of \$1,798.71 from the purchaser Benjamin H. Mullikin, and held his notes for the balance; and that he had received in payment from the purchaser Anderson the sum of 1,060; and held his notes for the balance. These reported sales were finally ratified on the 14th of

(b) See *Anderson v. Foulke*, 2 H. & G. 346; *Richardson v. Jones*, 3 G. & J. 164.