

if he had stood in that situation. Now before any of the principles, upon this subject, can be brought to bear upon the case under consideration, it must appear, that the plaintiff Araminta, or those under whom she claims were the principal debtors; or that the trustee Vincent was the principal; and that Catharine, or those claiming under her, were their sureties; and that those claiming under Catharine are now here asking to be reimbursed, as such, out of the funds of their principal now in the hands of the Court.

But the assumption of any such statement would be in direct opposition to all the proofs in the case. Vincent was a trustee appointed by this Court for the benefit of all concerned in the estate of the late Charles Rogers; and if he misapplied the rents and profits * which came to his hands, he alone is responsible. If this Court were to make good to Catharine's representatives **202** any amount of the rents and profits which had been misapplied by Vincent to their prejudice, out of the proportion of the funds now about to be distributed, to which the plaintiff Araminta is entitled, it would be, in effect, to treat her as the principal debtor, for whose benefit, among others, Vincent was not merely a trustee, subject only to the order of this Court; but, who was, in fact, her own proper agent; or it would be to consider Araminta as the surety of the trustee Vincent. But there is nothing in the case to warrant the placing of Araminta in any such condition of responsibility; and therefore the representatives of the late Catharine cannot sustain themselves on the stand they have taken by any principles derivable from the case of a principal debtor and surety.

But the representatives of the late Catharine, insist on having the securities, or these assets, now about to be distributed, so marshalled as to reimburse them to the amount of their share of the rents and profits which had been misapplied by the former trustee, Vincent.

The marshalling of securities is only made where the debt is so secured as to give to the creditor the means of obtaining payment out of two funds, and others can reach only one of them. In such case the Court will compel the creditor who holds the more comprehensive security to obtain payment, as far as practicable, out of the fund which the other creditors cannot reach; so as to leave the other fund to be distributed among the creditors holding more limited securities. 1 *Mad. Chan.* 250. But there is no sort of analogy between the case of creditors, whose securities may be thus marshalled, for the benefit of all, and without injury to any, and the case now under consideration. The plaintiff Araminta, and the representatives of the late Catharine, stand precisely in the same situation; not as creditors seeking payment, by way of preference, or otherwise, from the assets of a debtor;