

or none who are citizens or residents of this State, then, following the provisions of the Act of Assembly, as to suits at common

ments against them, by virtue whereof they paid to the said Cumming 3,357 lbs. tobacco, and to the said Tyler 9,602 lbs. tobacco; that the defendant Mary, was ready to do what the Court should direct for the sale of the said land, and had not refused to do what was right therein, consistent with her security and safety as trustee: but these defendants insisted that the bond debts, due from the deceased, which they had paid, together with the costs, should be allowed to them out of what should be raised by a sale of the said lands: that they were strangers to, and ignorant of, the claims of the plaintiffs against the deceased: and therefore no more should be allowed to those creditors than what might appear to be justly due; and these defendants hoped that, as the defendant Mary was only a trustee involuntary, the costs and charges expended by them in this suit might be paid to them, in the first place, out of the moneys arising from the sale of the lands devised to be sold.

May, 1739.—It was Ordered, in the presence of the counsel on both sides, that there should be a hearing of the said cause the next Court on bill and answer.

OGLE. C., 30th October, 1739.—This case coming on to be heard in presence of counsel on both sides, the complainant's bill and the defendant's answer thereto being read, appeared to be as the same, are hereinbefore recited and set forth.

Whereupon it is Decreed, that the lands and premises mentioned in the said bill to be devised for payment of the debts of the said Gunder Erickson be accordingly sold by the master to the best bidder, and that the master for that purpose give public notice, by causing printed advertisements to be set up in the most public places, of such intended sale; and also, that the said master cause public notice, in like manner to be given, that all the creditors of the said Gunder Erickson should come in and prove before the said master their respective debts, before the 28th day of February, or that, in default thereof, such creditors will be excluded from any share or proportion of the produce arising by the sale of the said lands and premises, and this Court doth further Decree, that the money or tobacco arising by such sale shall be applied by the master, in the first place, for the payment of the complainants' and defendants' costs of this suit: and all other necessary charges and expenses in the sale of the said lands and premises, and performance of this decree: and in the next place, to the payment of all debts whatsoever due from the said Gunder Erickson, in proportion, which shall be proved before the said master, before the 28th day of February: and then, if any money or tobacco shall remain, after payment of the said costs, charges, and expenses and debts, the same shall be applied for the payment of the said 3,357 lbs. tobacco, and 9,602 lbs. of tobacco, and the costs of suit mentioned in the said answer of the defendants John Smith and his wife; and if any surplus shall, after such several payments, remain, the same shall be subject to the further directions of this Court. And this Court doth further Decree, that the said John Smith and his wife shall, upon oath, produce before, and leave with, the said master, what title deeds they, or either of them, may have in their, or either of their possession relating to the said land and premises: and that the said Mary Smith, as executrix named in the will of the said Gunder Erickson shall execute, according to law, such deeds and conveyances of the