

* It is thereupon decreed, that so much of the real estate in the proceedings mentioned, whereof William Deakins **401** died seized, lying and being in the State of Maryland, as may be necessary, be sold for the payment of the debt in the proceedings mentioned. That B. S. Pigman be, and he is hereby appointed trustee to make the said sale, &c., which shall be on a credit of twelve months, with interest from the day of sale; the purchaser to give bond with approved surety, &c.

On the 18th of January, 1818, John Hoye, as administrator *de bonis non*, with the will annexed of the late William Deakins, filed his bill in this Court against Edward Thomas, in which bill Hoye states that the defendant Thomas had recovered judgment against him as administrator for a large amount; in satisfaction of which judgment, the defendant Thomas had agreed to take lands in Virginia; but that he had since refused to comply with the agreement on his part, by selecting and accepting the lands as stipulated; which agreement this plaintiff was then, and had always been ready to perform on his part. Whereupon, the bill prayed for a specific performance of the agreement, and for general relief.

B. S. Pigman having declined to act as trustee under the decree, the matter was brought before the Court.

KILTY, C., 7th April, 1818.—Ordered, that John A. T. Kilgour be, and he is hereby appointed trustee in the room of the said Pigman, to give bond in the same penalty, and to have the same powers as if appointed by the original decree.

On the 26th of April, 1819, John Threlkeld and Elizabeth his wife, filed their bill against the trustee John A. T. Kilgour. The bill alleges that Jane Deakins, the devisee of the late William Deakins, was dead, leaving this plaintiff Elizabeth her sole devisee and heir-at-law; that the trustee Kilgour had advertised for sale some of the lands which had been devised to the late Jane, and which were then held by these plaintiffs, to satisfy the debt alleged to be due to the petitioner Edward Thomas; that these plaintiffs were unable to say any thing about his claim; but they presumed that if the petitioner had filed his bill of complaint against the heirs and devisees of the late William Deakins the plea of limitations would have been a bar to an application for a sale of the real estate for payment of debts. Whereupon the bill prayed for a subpoena, and also for an injunction to prohibit the trustee Kilgour from proceeding * to make sale. To this bill there was subjoined the affidavit of the plaintiff John Threlkeld of the **402** truth of the facts therein set forth.