

The trustee has here very properly made such a report in regard to the defendant who had already made default is not paying the debt within the time \* allowed by the decree; which report may, therefore be ratified, leaving it hereafter to be determined which of those two highest bidders is to be deemed the actual purchaser. **467**

Ordered, that the sale as made and reported by the trustee be absolutely ratified and confirmed, no cause having been shewn to the contrary as allowed by the said order, &c.

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erty, and the highest bidder, excluding the said Scott, shall be returned as the purchaser.

On the 7th of August, 1822, Hector Scott filed a petition remonstrating against the said order excluding him from the biddings, and stating that others, through him, might be willing to buy the land, notwithstanding any objections he might have to the title under the decree; and that his exclusion, or that of any one else, might materially prejudice the sale; and averring that he had no knowledge whatever of the proposal of the trustee to have him excluded.

JOHNSON, C., 8th August, 1822.—According to the report of the trustee heretofore made, Hector Scott was reported as the purchaser. By the terms of sale, the purchaser was to pay the money on the day of sale, or on the ratification. The money was not paid on the day of sale, and previous to the time fixed on for the ratification, the purchaser himself objected to the ratification, alleging the title was insecure, and requesting the sale should be annulled. The trustee seeing that the purchaser wished the contract to be destroyed, consented to an order to that effect. In the passing the order, no judgment was formed as to the sufficiency or insufficiency of the title; but as the purchaser himself had, on examination, it is presumed, satisfied himself of the defect of the title, it is hardly to be presumed he would wish again at a public sale to bid for the land, the title to which remained as before; but lest this might be done, and that for the purpose of delay, and to defeat an effectual sale, beneficial to those concerned in the decree, it was thought advisable to direct the trustee not to receive a bid of him before returned as the purchaser. Since the order of exclusion the terms of sale are modified, requiring the purchaser to give security at the time of the sale, to the satisfaction of the trustee, for the payment of the purchase money. And as this change will prevent those from bidding who will not, or cannot give the security, the order therefore passed on the 28th of May last, so far as it relates to Hector Scott's prohibition to bid, be, and the same is hereby rescinded. And to avoid an interposition so as to defeat an effectual sale, it is now Ordered, that unless he who is the highest bidder shall comply with the terms of the sale, the person next bidding shall be returned as the purchaser, on his complying with the terms, and so on in succession, until the terms are complied with. As the property has been returned as sold to one person, who found fault with the sale, having had sufficient time to inquire into the title, should be returned as the purchaser, he must be considered buying the right such as it is, and no future objections will be received on the insufficiency of the title.—MS.