

But such sales are always made by an agent; in England, by a master, in this State, by a trustee. Private contracts may be made and executed in person, or by attorney; but the attorney is never considered as one of the contracting parties, he exercises no will
637 * or powers of his own, he is merely the medium or conduit through which the will of the contracting party is expressed. The master or trustee is the mere attorney of the Court, acting under a specially delegated authority. 1785, ch. 72, s. 7; April, 1787, ch. 30, s. 5. And, in no case, is a master or trustee authorized to do more than to accept an offer or proposal to contract, which is of no sort of validity unless it be accepted, ratified and confirmed by the Court. It is the Court itself, for the benefit of all interested, therefore, who is the vendor in such cases.

But it may be said, if the Court be the vendor in sales made by its trustee, would it not follow, for the same reasons, that a Court of common law must be considered as the vendor in sales made under its writ of *feri facias* by the sheriff? The cases are essentially different. The writ of *feri facias* is a general authority or command to the sheriff to make so much money by sale from the personal estate of the defendant. By this writ the executive officer of the Court is commissioned to seize the whole, or any part, or so much of the defendant's personal estate as may be necessary to raise the specified sum of money. No particular articles of property are ever designated. By the statute, 5 Geo. 2, c. 7, this power, given by the common law writ over personal estate, has been extended over real estate. And the same writ, and nearly the same principles of law, now apply to both species of property.

The real or personal estate with which the Court of Chancery deals is, however, always in one form or other distinctly specified in the proceedings; and the sale is made only because the Court is asked to have it made to accomplish the objects of the suit. In the proceedings at common law, from the commencement to the *feri facias*, no property is designated. At common law, the terms and manner of sale are regulated by law; in Chancery, they are regulated by the Court. At common law if the sheriff, in seizing the property and making the sale, conforms to the established regulations applicable to all cases, (and he can sell in no other manner,) the sale is final and valid as soon as it is made. But in Chancery the sale is, in no case, binding and conclusive, until it has been expressly approved and ratified by the Court. If it be made in a manner wholly different from that prescribed by the Court, it may yet be sanctioned; or, if it be made in all respects conformable to directions, it may still be rejected. And hence, it is obvious, that

638 * in the one case it is the Court of Chancery who is the real vendor, and in the other, the sheriff or executive officer of the Court.