

owing from the said Anderson, And it is further decreed, that the trustee James Boyle, do also forthwith institute suit upon the said appeal bond, and prosecute the same without delay, until he shall obtain full satisfaction, if to be had, of the said obligors, of the whole amount of principal, interest and costs, recoverable thereon. And it is further decreed, that the trustee James Boyle, bring into this Court, all sums of money he may receive or recover in any of the modes hereinbefore specified, and make report of his proceedings accordingly, to the end, that no more may be collected by the said several modes of proceeding, than one entire satisfaction of the whole amount of principal, interest and costs, which ought to be paid by the said Samuel Anderson.

* Under this decree, the trustee proceeded to make sale of the land which had been previously sold to Samuel Anderson; and on the 27th of April, 1829, reported, that he had made sale of it; upon which, it was ordered, that the sale should be ratified, unless cause was shewn to the contrary, before the 27th of June, then next. 671

The plaintiff Andrews, by his petition, filed on the 17th of June, 1829, stated, that the sale as reported, had been made for \$3.10 per acre; that he had, by a letter to the trustees, before the day of sale, offered, and was then willing to give \$3.57 per acre, for the land. He expressly admits, that there was no fraud in the transaction; but prays that a new sale may be ordered, so that he may be let into bid the amount he had previously offered. The trustee admitted the truth of the facts so stated by Andrews.

BLAND, C., 18th June, 1829.—This petition of the plaintiff Andrews, having been submitted without remark, the proceedings were read and considered.

I have before said in this case, that there has been no instance of opening the biddings here, merely to let in a higher bid; and this is the first proposition of the kind, that I have any knowledge of having ever been made to this Court. (o) If any small advance in price, such as that now offered, were to be admitted as a sufficient ground for letting in a new bidder, to the exclusion of the reported one, it is obvious, that the practice might greatly embarrass sales under decrees of this Court. By adopting the English practice of opening the biddings, as it is called, the regularity of public sales by trustees, as practised here, would be virtually broken in upon, and destroyed by the Court itself; bidders would be discouraged; sales delayed; and the expense much increased; for it could not be deemed proper to receive a bid in any form, without allowing a

(o) *Bealmere v. Warfield*, 1st October, 1830, per BLAND, Chancellor, a similar application to open the biddings, was rejected.