

by these plaintiffs, or by any other creditor coming in under that decree.

But Oliver insists upon a right to have his claim first satisfied out of these proceeds, on the ground, that his lien upon them is prior to that of Carroll's.

These defendants Love, Slye, and the Barbers, obtained their judgments against the Cape Sable Company in Baltimore County Court at its March Term of 1822; and Carroll now claims as the assignee of those judgments. But it appears, that executions were issued, on the 2d of September, 1822, on those judgments, and returned *nulla bona* to that Court; after which writs of *feri facias* were issued returnable to April Term, 1823, of Anne Arundel County Court. And then, after more than one year had elapsed, without any further proceedings being had, by a writing, filed on the first of June, 1824, it was agreed, that writs of execution should be issued out of Anne Arundel County Court, without any steps being taken to revive them; and on the same day executions were issued accordingly, and levied on the property of the Cape Sable Company, which were stayed by the injunction in this case. Immediately after which, on the 4th day of the same month, Carroll instituted actions of debt on those same judgments, and obtained judgments by confession on the same day.

Whence it is clear that as no execution could then have been issued on the four original judgments of 1822; the lien which they gave had expired, and was barred by the common law limitation  
**660** \* and presumption of satisfaction on the 26th of May, 1824, when the lien arising from Oliver's judgment attached. And, therefore, as I have shewn upon a former occasion, *Coombs v. Jordan, ante*, 284, the lien of those judgments held by Carroll, could not have been so revived, even by a *scire facias*, much less by a mere agreement between the parties to them, as to overreach that lien of Oliver's judgment, which had, in the interval, fastened upon the real estate of the defendant. Taking it for granted then, that all the proceedings of Anne Arundel County Court, upon those four judgments, held by Carroll, were in every respect regular and valid, still Oliver's lien is entitled to a preference in satisfaction. But, notwithstanding what Carroll has said in his answer, the lien arising from his judgments of Anne Arundel County Court, was virtually relinquished by him, by the institution of the suits and the judgments obtained by him in Baltimore County Court, on the 4th of June, 1824; and, consequently, upon this ground also, Oliver's judgment must be respected as a prior lien to that arising from those held by Carroll, and must be allowed a preference in satisfaction accordingly.

It is here proper, however, to recollect, that the Act of Assembly which enlarges the time within which a *feri facias* may be issued on a judgment to three years; and, consequently, so far prolongs