

[In this case certain land was sold under a decree of the court to satisfy a mortgage debt; and a surplus remaining in court, after its payment in full, petitions were filed by various parties, claiming to be entitled to have their debts paid out of the residue of the fund.

The question decided in the case, the facts of which are fully stated by the Chancellor in his opinion, relates to the doctrine of the appropriation of payments :]

THE CHANCELLOR :

The question now submitted for decision has reference to the distribution of the fund raised by the sale of the property, under the decree of the 22d of September, 1835.

It appears, by the proceedings, that the late Charles Carroll of Carrollton, in the years 1829 and 1830, loaned to the defendant, William Carroll, the sum of \$3500, to secure the repayment of which, the latter assigned to the former a land office certificate, for a tract of land called "Canal and Rail Road," containing upwards of ten thousand acres; and that, to secure the repayment of a further loan of \$500, made on the 20th of October, 1830, the defendant assigned to the said Carroll of Carrollton, similar certificates of four tracts, called "Water Lot," "Villiers," "Webster," and "Take All."

Upon the certificate for the tract called "Canal and Rail Road," a patent was obtained by the complainant's testator on the 11th of March, 1830.

Agreements were signed by the said testator, dated respectively, on the 12th of January, 1830, and the 22d of April, 1831, showing the assignments to have been made by way of security merely, and constituting them in effect, mortgages, and they were so treated in the bill and decree, which was passed for the sale of the property.

The trustee appointed for the purpose, made sale of the several parcels of land in the lump, on the 8th of July, 1846, for the gross sum of \$6950, and the sale has been duly ratified and confirmed by the court; and the question is, how shall the