

this motion, but the grounds upon which the Chancellor decided the cause, will appear from the following extracts from his opinion, filed on the 27th July, 1848, viz.]

THE CHANCELLOR :

When the application for the injunction was made, I entertained very serious doubts as to the propriety of granting it, but not seeing that any material injury could result to the judgment creditor, from a temporary suspension of his right to enforce it by execution, and being willing to hear the views of counsel before making up a definite judgment upon the subject, I thought it best to order the injunction, that a more careful consideration might be given the case when the motion to dissolve should be made.

Upon the petition of these complainants, Duvall and Saussar, filed in the case of Hodges vs. Sevier and wife, the proceedings in which case are made parts of this, I had occasion to examine the question of the extent and character of the title which a purchaser acquired from a trustee selling under a decree of this court, and the result was, that "as a general rule, the title of the parties to the suit and nothing more, was sold ;" and, that though a purchaser discovering a defect in his title, at the proper time, might be relieved from his purchase, by asking for a rescision of the sale, he could not be permitted, whilst holding on to his purchase, to insist upon having his title perfected by the application of the proceeds of sale to the extinguishment of the claims of incumbrancers not parties to the suit.

And the petition in that case was dismissed upon the ground, that these defendants, the judgment creditors, were not parties, and their lien, consequently, not extinguished. This decision was made, too, with full knowledge and due reflection upon the fact, that Duvall, the trustee of the insolvent, was a party to the suit, and had consented to the decree ; and, consequently, it follows, that his presence as a party was not considered as dispensing with the presence of the incumbrancers themselves. Or, in other words, that the trustee was not to be regard-