

3d. That a bidder who would have given nearly twice the amount for which the property was struck off, was kept from attending the sale by the information which he received from the defendant.

These circumstances, I am persuaded, must cause a doubt, and a strong doubt, of the propriety of the sale, and when viewed in connection with the unquestionable fact, that the property sold much below its value, seem to me to furnish sufficient grounds to vacate it.

This case, in some of its features, and, especially, in that particular one upon which my judgment is formed, is strikingly like the case of *Williamson vs. Dale*, 3 Johns. Ch. Rep., 290, in which a sale made by a master in New York was set aside, upon the ground of surprise; the surprise consisting in a misapprehension on the part of the defendant, as to the day of sale, founded upon conversations had by their agent with the plaintiff and his solicitor—there was, in that case, as stated by the Chancellor, no imputation of any unfair intention in the plaintiff or the solicitor, or of any unfair conduct at the sale; but still, upon the ground, that the defendants were innocently misled, the sale was vacated; though the purchaser was conceded to stand fair before the court, upon which he was allowed his costs, which I shall order to be paid him in this case.

There was inadequacy of price shown in the case before Chancellor Kent, but that, he said, would not be sufficient, unattended with other circumstances. He put it upon the ground of surprise, though he remarked, the surprise was not of the most stringent kind; and the case for relief, on that ground, was pushed to the utmost verge of an admissible interference.

The case now under consideration is, I think, stronger than that of *Williamson and Dale*; and, therefore, I do not think I am treading on delicate or dangerous ground, in vacating this sale and ordering the property to be put again in the market. Some of the objections, founded on considerations of public policy, are certainly obviated by the concurrence of the plaintiff, in the application for the interposition of the court.

An order will be passed, setting aside the sale, directing the