

Where a party who has trusted a mortgagor, knowing of the existence of a prior unrecorded mortgage, claims to stand upon a stronger equity than a party subsequently trusting the mortgagor, because the former knew of the unregistered mortgage, and the latter did not—such a pretension is in conflict with the act of 1785, ch. 72, sec. 11.

The assignment of a debt secured by a mortgage, carries the latter with it, whether the mortgage is mentioned in the assignment or not; and the plaintiffs in this case are to be regarded as assignees of the mortgage executed to protect the acceptances held by them, though they did not know of its existence when the acceptances were taken.

A subsequent purchaser, who has actual notice, at the time of his purchase, of a prior unregistered mortgage, cannot avail himself of his purchase against the prior conveyance. This doctrine rests upon the ground of fraud, and is subject to the qualification that the prior unrecorded conveyance shall be available only in cases, where the notice is so clearly proved as to make it fraudulent in a subsequent purchaser to take and record a conveyance in prejudice to the known title of the other.

A *bona fide* assignee without notice will not be affected with notice to his assignor, but will be as much protected as if no notice had ever existed.

The assignee of a *chose in action* takes it subject to the equities which existed against it in the hands of the assignor; but these equities are the equities of the debtor himself, and not equities residing in some third person, against the assignor.

The defendants, Winn and Ross, will be allowed a dividend on the notes held by them, dated after the mortgage of April, 1846, only to the extent of the amount which their insolvent, Jones, has paid, or his estate will pay, upon the cross notes given by him in exchange for these of H. & M.

THE CHANCELLOR:

The proceedings in this case show that on the 31st July, 1845, Robert B. Hancock and Thomas W. Mann, being about to become indebted to Frederick Dawson and Lambert S. Norwood, by promissory notes, and bills of exchange to be drawn, accepted, or indorsed, by Hancock and Mann, and by them passed to Dawson and Norwood, to an amount not to exceed at any one time, fifty thousand dollars, for the purpose of securing them in respect thereof, executed to the said Dawson and Norwood, on that day a mortgage of a lot, a parcel of ground in Baltimore county, for which the grantors held the bond of conveyance of the Canton Company of Baltimore; together with the buildings and improvements thereon erected, and certain machinery connected therewith, which are supposed to be fixtures; the property being used as a factory, for the making of oil, candles and soap.