

whether the party, who is successful in the inferior court, has, in the sureties in the bond, a secure indemnity for the injury he may sustain by the appeal, and whether this appears by looking to the value of each surety, or by an aggregation of the worth of all, is not material. If the sureties in the bond taken collectively, are sufficient, the bond is sufficient, and must be approved.

The land in this case was sold on the 8th of May, 1848, to satisfy the purchase money therefor due the complainants. The order confirming this sale was appealed from, and was affirmed by the Court of Appeals, on the 21st of June, 1850. In his account, the Auditor calculated interest upon the claim up to the day of sale, and then, interest upon the whole aggregate amount, to the date of the affirmance of the order above mentioned. The defendants excepted upon the grounds, that the complainant's claim as it stood on the day of sale, should not have been treated as principal, but that interest should only have been charged upon the original principal debt; and that the remedy for any loss occasioned by the delay consequent upon the appeal was upon the appeal bond, and not against the fund in court. **HELD—**

That if a debtor's property be sold on credit to pay his debts, his creditors using due diligence in getting their money from the trustee, on the day of its receipt by him, would be receiving not only simple interest on their debts from their maturity, but interest compounded from the day of sale. And this right of the creditor should not be prejudiced by any act of the debtor, as by an appeal and the filing of an appeal bond.

Though the appeal bond might be resorted to, yet if the sureties in it were made to pay the money, they would be entitled to come into this court, and ask indemnity out of the fund; and, therefore, there can be no propriety in turning the creditor over to the sureties in the first instance, creating thereby unnecessary circuitry, and, perhaps, exposing them to loss.

Where a sale is made on credit, and the defendant refuses to give the purchaser possession, it is very clear, that the purchaser cannot be made to pay interest for the benefit of the defendant, for the time he was deprived of the possession.

And where a sale was made for cash, and the money paid, and possession of the property retained by the defendant, the purchaser will be indemnified for this loss out of the proceeds of sale in court belonging to the defendant, though the appeal bond be also answerable therefor.

[The bill in this case was filed on the 4th of March, 1845, by the complainants, Ephraim K. Barnum and Zenos Barnum, as executors of David Barnum, deceased; and states, that on the 8th of July, 1844, the complainants, as executors as aforesaid, sold certain parcels of land situated in Baltimore county, to Catharine M. McClellan and Catharine M. Raborg, for the sum of \$12,000; but at that price to be freed and cleared from a mortgage given by their testator, to one George Brown, for a debt of \$8,000, dated the 8th of April, 1841.