

been said, that after the trustee has put the property in the market, agreeably to the terms of the decree, and has failed to get an acceptable bid, he may dispose of it at private sale, or upon terms in other respects varying from the decree, and if no objection be made to it, after public notice given in the usual way, it will be confirmed. And it is supposed that objections of a merely capricious or arbitrary character would not be allowed to prevail. But it would seem upon principle, and it is believed to be the law of this Court, that a private sale, even after an ineffectual effort to sell publicly, is open to objection, which would not be allowed to stand in the way of a public sale. 1 *Bland*, 144; *Md. Ch. Pr.*, 146. The principle that this Court will ratify an act when done, which upon application it would have ordered to be done, has been invoked in aid of this sale, and the case of *Tyson vs. Mickle*, 2 *Gill*, 376, is cited, as sustaining the applicability of the principle to cases like the present.

The principle may be, and probably is, to a certain extent, applicable, but it will be found, upon an examination of the case relied upon, that the circumstances of that and the case now under consideration are widely different. In that case repeated attempts had been made to sell the property at public sale, according to the decree, and persevering, earnest, and long-continued efforts had been made by the trustees to sell at the minimum price agreed upon by the parties, which was at last accomplished, after an interval of two years and six months from the first attempt to sell at public sale. It was in reference to these circumstances that the Court of Appeals say, that if the trustees, instead of closing the bargain when they received the offer, had reported the facts to the Chancellor, and asked his permission to sell the property on the terms proposed at private sale, there can be no doubt he would have granted it; and if so, the Court will, in the absence of proof showing the inexpediency or injustice of so doing, "ratify the act done, in the same manner as if the requisite authority had been previously granted." It will be observed that even with reference to the peculiar and strong circumstances of that case, the ratification