

copies), that he took an assignment of the judgments which the Bank had recovered against Welch and Whittington, as the endorsers upon the note of Ridgely; and he alleges that he looks to these parties primarily to secure him against his responsibility to the Bank, though the mortgage may ultimately be responsible to him for the debt.

It does appear that this judgment was so assigned to Taylor by the Bank, but it certainly does not appear that Welch and Whittington had agreed, as between Taylor and themselves, to become primarily bound for this debt; and such an agreement is so improbable, not to say irrational, that it is impossible to presume it. Taylor says in his answer, that he agreed to take this Bank debt upon himself to prevent Welch and Whittington from selling the town property, as they informed him they proposed to do, and he actually, in the negotiations with the Bank, assumed the attitude of the principal debtor by becoming the maker of the note. He had also at that time in his hands an assignment of Barber's proportion of the proceeds of the property sold to Sinclair, being a part of the mortgaged property which stood between the endorsers and loss; and yet his pretension now is, that though he had thus in his hands a portion of their security, and though they, upon his assuming the debt, had forborne to proceed against the unsold mortgaged premises, and though he, and not Welch and Whittington, was the principal debtor in the note to the Bank, still because he had taken from the Bank an assignment of the judgments against those parties, they, and not he were primarily liable. It seems to me impossible to maintain such a position; and I am, therefore, of opinion that the money received by Taylor from Robert Sinclair on the 1st of October, 1845, is applicable to the payment of the mortgage debt.

The complainant in this case purchased the equity of redemption of the mortgagor, Gustavus R. Barber, in July, 1849, sold under an execution issued upon a judgment against him in favor of the Annapolis and Elk Ridge Railroad Company.

That the complainant as the purchaser of the equity of redemption has a right to redeem, has not been, and cannot be