

MULLIKIN v. MULLIKIN.

A trustee, who had been appointed to make sale under a decree, ordered to bring the purchase money with the bonds and notes received or taken by him, into court, and displaced, because of his misconduct.

A distributee can be allowed nothing until all sums for which he is liable as principal or surety have been paid; and his assignee takes subject to all equities to which he is liable.

On a purchaser failing to pay the purchase money, the land may be resold at his risk under the court's equitable lien.

This bill was filed on the 4th of December 1812, by *Benjamin H. Mullikin, Richard D. Mullikin, Basil D. Mullikin, Jacob F. Waters, Basil Duckett* and *Sophia* his wife, *Margaret Mullikin, Ann Mullikin, and Kitty Mullikin*, against *Regnal Mullikin, Baruch Mullikin, John Waters, Ann Maria Waters, and Rachel Waters*, all of whom were minors. The bill states, that *Belt Mullikin* had died intestate seized of a large real estate which had descended to his children the plaintiffs *Benjamin, Richard, Basil D. Mullikin, Sophia, Margaret, Ann, and Kitty*, who were of full age, and to his children the infant defendants *Regnal* and *Baruch*; and to his grand-children, the infant defendants, *John, Ann Maria, and Rachel*, who were the children of the intestate's late daughter *Martha H. Waters* who had been the wife of the plaintiff *Jacob F. Waters*; that it would be for the benefit of all the representatives of the intestate to have the land sold, in order to make division of the proceeds thereof; but that a sale could not be effected without the interposition of this court. Whereupon the plaintiffs prayed, that a sale might be made; and that they might have such other relief as the nature of their case might require.

The defendants *Regnal* and *Baruch* having attained their full age, since the filing of the bill, put in their answer on the 6th of January 1817, and consented to a sale as prayed. And the other defendants, who were still under age, answered by guardian and admitted, that a sale should be made as prayed.

Upon which on the 8th of January 1817 a decree was passed in the usual form, appointing *Jonathan Meredith* trustee to make the sale; who, with his own consent, was on the 10th of March following removed, and *Basil D. Mullikin* appointed in his stead. After which this trustee, having given bond with *Baruch Mullikin* and *Regnal Mullikin* as his sureties, on the 4th of April 1821 filed his report, in which he states, that he had on the 5th of