

rule *caveat emptor*, applies to all judicial sales; the operation of this rule — Courts of equity, having concurrent jurisdiction, should not be brought into collision; how such collisions may be avoided.

IN order that the opinion of the court upon the two cases which, under the name of *Brown* against *Wallace*, were together brought before it, discussed, and submitted for judgment, may be fully and correctly understood, it will be necessary to make a report of the previous case of *Mitchell* against *Mitchell*, instituted in this court, out of which those cases arose, and upon which they were founded.

On the 23d of May, 1811, a bill was filed here by *James Mitchell* and *Aquila Mitchell*, infants, by *Abraham Jarrett*, their guardian, against *Parker Mitchell*, *Kent Mitchell*, *William Mitchell*, *Sarah Mitchell*, *John Hughes*, and *Charlotte* his wife, *Thomas Herbert*, and *Elizabeth* his wife, *Samuel Hopkins*, and *Mary* his wife, *Joseph Hopkins*, and *Clemency* his wife, *Thomas Chesney*, and *Hannah* his wife, all of full age, and *Edward Mitchell* and *Ann Mitchell*, infants. The bill states that *James Mitchell*, the father of the plaintiffs, died some five years previous intestate and seized in fee simple of several parcels of land, which descended to his children and heirs, *Martin Mitchell*, *Kent Mitchell*, *Bennet Mitchell*, and *Harriet Mitchell*, with these plaintiffs, *James Mitchell* and *Aquila Mitchell*; that upon the petition of *James* and *Aquila*, to Harford county court, under the act to direct descents for a partition of the land so descended, a commission was accordingly issued and returned to that court, stating that, by reason of a valuable fishery, it could not be divided without loss, and that the lands had been valued altogether at \$9,830. Upon which, on the 15th of March, 1810, *William Mitchell*, being the purchaser of *Martin Mitchell*, the eldest heir's share, came into that court, and elected to take the lands at the valuation. Since which election, *William Mitchell* had died intestate, leaving these defendants his heirs, and without having paid to these plaintiffs any part of the value due to them; that administration on the personal estate of *William Mitchell*, deceased, had been granted to the defendant, and that the personal estate of the intestate *William* was altogether insufficient to pay his debts. Whereupon the bill prayed that the said lands, which were at law and in equity charged with the plaintiff's demand, might be sold to pay the amount due to the plaintiffs. (a)

(a) *Jarrett's Lessee v. Cooley*, 6 H. & J. 258.