

decree. And if he has placed it out of the mortgagor's power to redeem, by aliening the estate after the decree, he will be perpetually enjoined from proceeding upon the bond. But if the creditor on his bill in equity, instead of a decree to foreclose, obtains a decree for a sale; and the mortgaged estate sells for less than the debt, the balance may be recovered in an action on the covenant or bond, without opening or affecting such a decree for a sale, by which the pledge itself is not taken as a satisfaction as by a decree to foreclose. (a) Hence it is evident, that the use of a mortgage covenant, or bond to repay is to enable the mortgagee to recover his debt as far as practicable, in that way, leaving him to his right of foreclosure, or sale of the mortgaged property, for the recovery of the balance; or as a means of recovering the residue of his debt by an action on the bond or covenant, in case the estate on a sale should prove inadequate to the burthen of the mortgage money. (b)

The court has been authorized by an act of assembly to decree a sale of the mortgaged property; (c) but the provisions of that act have been always considered as having merely introduced an additional remedy, and not as having abrogated any pre-existing mode of relief, to which the mortgagee was entitled, or to have altered the proceedings in this court on mortgages, in any other respect whatever; and therefore, the mortgagee may now, notwithstanding the provisions of that law, have a decree of foreclosure instead of a decree for a sale. (d) If the creditor files a bill on the mortgage,

(a) *Goodman v. Grierson*, 2 Ball & Bea. 279; *Davis v. Battine*, 6 Cond. Cha. Rep. 404.—(b) *Powell Mortg.* 15, note L.; *Tooke v. Hartley*, 2 Bro. C. C. 126; S. C. 2 Dick, 785; *Perry v. Barker*, 8 Ves. 527; S. C. 13 Ves. 196; *Greenwood v. Taylor*, 4 Cond. Cha. Rep. 381.—(c) 1785, ch. 72, s. 1, 2 & 3; 1837, ch. 292.—(d) *Atkinson v. Hall*, ante 371, note.

WARDROP v. HALL.—This bill was filed on the 21st of November, 1748, by John Wardrop against Joseph Hall, to foreclose a mortgage on a tract of land, which the defendant had given to the plaintiff to secure the payment of three hundred pounds sterling, with interest. The defendant by his answer admitted the mortgage, and that no part of the principal or interest of the debt had been paid; but alleged that the mortgaged land was an ample security for the debt, the improvement thereon alone being worth, at a moderate valuation, at least six hundred pounds sterling; and therefore he prayed to be allowed a reasonable time to redeem, &c.

May, 1749.—**OGLE, Chancellor.**—It appearing to this court that a sum of three hundred pounds sterling was, on the 17th day of October, 1747, lent and advanced by the complainant to the defendant on the said mortgaged premises, as a security for the repayment of the said sum, with the interest thereof. It is therefore *Decreed*, that in case the defendant doth not, on or before the 30th day of September next, pay unto the complainant the said sum of three hundred pounds sterling, with lawful