

bill against his debtor, for the balance of the debt; because it would be at variance with the substantial nature of the case set out in his bill; which is, that he should by that proceeding *in rem*, obtain satisfaction of his claim from the pledged subject itself, either by having an absolute title assured to him in the form of a foreclosure; or by having it sent into the market, and the money due to him, raised by a sale; and not that he should be allowed to enforce payment of his whole debt, by proceeding against the person of his debtor, or against any other of his property than that so mortgaged. And besides, to pass a decree for the payment of the balance, would be to grant relief in a case, where it is most manifest, the creditor might be as effectually relieved at law. (e) But there is no rule of equity by which he can be delayed or enjoined from recovering the balance remaining so unsatisfied, in an action at law upon the bond, note, covenant, or assumpsit. And these principles of equity appear to have been indirectly recognized by the legislature, in an act for the benefit of foreigners, who lend money on mortgage here, by which it is declared, that if sufficient be not raised in such case, by a sale for the satisfaction of such foreign creditor, the court shall decree the balance to be paid by the mortgagor; (f) and they appear to have been in like manner recognized, by an adjudication of the Court of Appeals. (g)

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cause standing ready for hearing, the bill, exhibits, and all other proceedings, were by the Chancellor read and considered. It is thereupon *Decreed*, that the bill of the complainant, George Buchanan, against Michael Shannon, the defendant, be taken *pro confesso*; and that unless the defendant, Michael Shannon, shall on the 1st day of October next bring into this court, to be paid to the complainant, the sum of £252 10s. 6d. current money, which will be the sum on that day due for principal and interest on the mortgage in the bill mentioned; or at any time before the said day shall bring into this court, to be paid to the complainant as aforesaid; or pay to the complainant the sum of £170 12s. 6d. current money, with interest from the 1st day of October, 1792, until the time of bringing in or actual payment, he shall for ever be barred or foreclosed from all redemption or equity of redemption of the lot in the bill and mortgage mentioned; and the complainant, his heirs and assigns, shall be entitled to hold the same free, clear, and discharged from all claim of the said defendant. Provided always, that if the said absent defendant, his heirs, devisees, or representatives, shall appear in the Chancery Court at any time within eighteen calendar months from the date of the decree, *viz.* before the 18th day of September, 1801, and require a review of this decree, the Chancellor, upon bill filed by the said defendant, or his heirs, devisees, or representatives, shall proceed to an examination of the matters in dispute, and to a final decree, in the same manner as if the said defendant had originally appeared before him.—[1795, ch. 88, s. 1.]

(e) Powel Mortg. 15, note L; Wood v. Fulton, 2 H. & G. 72.—(f) 1784, ch. 58.—(g) Wood v. Fulton, 2 H. & G. 72.