

per equitable lien, it is expressly declared, that it shall only be enforced by a suit at common law upon the bond itself. The lien security, and the remedy upon it, in this respect, are alike new and specially prescribed; neither the one nor the other is left to be ascertained by inference or analogy.

I am therefore of opinion, that no mere equitable lien can be presumed to arise from any sale of a real estate made under this law for the purpose of effecting a division of its value; and that this plaintiff can have no remedy whatever for recovering the amount of the purchase money due to him, other than that which has been specially prescribed by this act of Assembly, under which the sale has been made and the bond given.

Whether the first judgment which may have been obtained, as in this instance, upon a bond of this description, by any one of the heirs, for whose security it was given, so merges the whole bond as that no other suit can be brought upon it against the same obligors; or so as to leave to the other heirs no other mode of proceeding for the recovery of their respective shares than by a *scire facias* upon the judgment thus recovered, it is not necessary now to determine. But it is clear, that whether the bond has been taken under the direction of the Court of Chancery, or of a county court, or whatever may be the proper course of proceeding, the remedy must be at common law upon the bond itself, or upon that judgment by which the bond has been absorbed.

This last general act to direct descents declares, that the legal estate shall not be conveyed until the terms of sale shall have been complied with by the purchaser having paid the purchase money; and in relation to the estate held by the purchaser, it is said to be an equitable interest therein before any deed shall be executed for the estate sold. And again it is said, that the county court or Chancellor shall be satisfied, that the purchase money has been fully paid before a conveyance is ordered to be made. (u) Whence it is clear, that the lien, the remedy upon it, and its final disengagement by a conveyance are all expressly declared to arise out of, and to be attendant upon the *bond*; and to be chiefly or altogether a continuation or part of the judicial proceedings of that tribunal to which the application had been made for a partition of the estate. (w)

It is declared, that the *bond* shall remain as a *lien* until the

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(u) 1820, ch. 191, s. 24 and 25.—(w) *Stuart v. Laird*, 1 Cran. 309.