

This section entitles a purchaser to the writ where a sale has been made under a power contained in a mortgage. Where the party in possession excepts to the sale and his exceptions are overruled, he can not raise the same objections upon an application for the writ of *habere*. The fact that the sale was made by the assignee of the mortgage, does not defeat the purchaser's right to the writ. *Dill v. Satterfield*, 34 Md. 53.

Proceedings held to be in conformity with this section. Sundry alleged irregularities connected with the sale and the sheriff's return, held to be no defense to an application for the writ of *habere*. An agreement between the party in possession and a third party made after the seizure and sale, does not defeat the writ. *Miller v. Wilson*, 32 Md. 298.

This section operates in favor of the purchaser of an equitable estate, as well as of a legal estate. *McMechen v. Marman*, 8 G. & J. 73.

Where pending an application for a writ of *habere*, the purchaser of land dies, his right to the writ does not devolve upon his administrators. *Turner v. Waters*, 14 Md. 62.

The act of 1825, ch. 103, held applicable where lands were taken in execution prior to its adoption, but sold thereafter. *Clark v. Bealmear*, 1 G. & J. 449.

1904, art. 75, sec. 94. 1888, art. 75, sec. 89. 1860, art. 75, sec. 65.  
1825, ch. 103, sec. 2.

94. The said sheriff, coroner or elisor shall have all the powers in the execution of said writ that he may have in the execution of any writ of *habere facias possessionem* to him directed.

*Ibid.* sec. 95. 1888, art. 75, sec. 90. 1860, art. 75, sec. 66. 1831, ch. 41.

95. If the said sheriff, coroner or elisor shall die, resign or be removed from or disqualified for office, or have his authority otherwise terminated after such sale, and before the writ in the nature of a writ of *habere facias possessionem* shall have been issued and executed, the court shall issue said writ to any succeeding sheriff, coroner or elisor; and if any such officer, to whom said writ is directed, or who is charged with, or on whom may devolve the execution of such writ, shall die, resign, be removed from or disqualified for office, or have his authority otherwise terminated before such writ shall be finally executed and returned, said writ shall be delivered to and executed and returned by any succeeding sheriff, coroner or elisor.

This section applied. *Penn v. Isherwood*, 5 Gill. 212.

*Ibid.* sec. 96. 1888, art. 75, sec. 91. 1860, art. 75, sec. 67.  
1831, ch. 290, sec. 5.

96. The provisions of the three preceding sections shall apply to sales made by sheriffs, upon executions issued by the clerk upon judgments rendered by justices of the peace, and duly recorded; and the said writ may be issued by the court to which the proceedings as to such sales shall be returned, as if the execution under which such sales shall have been made had issued from such court on a judgment therein recovered.

As to the record of magistrates' judgments, see art. 52, sections 40 and 41.

*Ibid.* sec. 97. 1888, art. 75, sec. 92. 1860, art. 75, sec. 68. 1846, ch. 152.

97. No application for a writ of *habere facias possessionem* under this article shall abate by reason of the death of the purchaser before