

Object of this section. It applies to all cases where an executor is authorized to sell real estate. The executor represents all parties in interest. *Dent v. Maddox*, 4 Md. 530. And see *Maddox v. Dent*, 4 Md. Ch. 549.

Prior to the act of 1831, ch. 315, the executor's bond was not liable for the proceeds of real estate sold for the payment of debts; equity alone could administer equitable assets. *Cornish v. Wilson*, 6 Gill, 334; *Waring v. Waring*, 2 Bl. 677.

This section referred to in construing the act of 1831, ch. 315—see notes to section 350. *Warford v. Colvin*, 14 Md. 556.

This section referred to in construing section 291—see notes thereto. *Wright v. Williams*, 93 Md. 69.

This section referred to in construing article 21, section 81—see notes thereto. *Smith v. Montgomery*, 75 Md. 140.

Cited but not construed in *Davis v. Clabaugh*, 30 Md. 510.

• See notes to sec. 291.

For a curative statute involving sales under the wills of non-residents, see art. 21, sec. 81.

As to the writ of *habere facias possessionem* in cases of sales made under a power contained in a will, see art. 75, sec. 93.

See art. 16, sections 93 and 251.

1904, art. 93, sec. 288. 1888, art. 93, sec. 283. 1865, ch. 162, sec. 1.

291. In all cases in which a testator, by will, has directed his real estate to be sold for the payment of debts, or for any other purpose, and the executor or executors therein named shall refuse or decline to act, or shall die without executing the powers vested in him or them, it shall and may be lawful for the several orphans' courts of this State, upon petition of any party interested, to appoint an administrator *de bonis non*, with the will annexed, or to empower the administrator with the will annexed, previously appointed, to execute the trusts of said will in the same manner and to the same extent as the executor or executors appointed by will could or might do.

Where a will directs an executor to sell real estate upon the death of the life tenant but the executor is removed during the life of the life tenant, upon the latter's death the orphans' court has jurisdiction under this section, but the jurisdiction of equity under article 16, section 94, is not interfered with, and the jurisdiction first invoked, prevails. *Wright v. Williams*, 93 Md. 69.

This section confers upon the administrator *c. t. a.*, all the power and authority to sell which the original executor derived from the will. *Bay v. Posner*, 78 Md. 48; *Venable v. Mercantile Trust, etc., Co.*, 74 Md. 189.

This section has no application if the executor dies in the life time of the testator, and hence the power of sale never vests. *Wilcoxon v. Reese*, 63 Md. 545.

This section applied. *Snook v. Munday*, 90 Md. 703; *Keplinger v. Maccubbin*, 58 Md. 211.

This section referred to in construing section 290—see notes thereto. *Warehime v. Graf*, 83 Md. 101.

See notes to sec. 290.

Ibid. sec. 289. 1888, art. 93, sec. 284. 1865, ch. 162, sec. 2. 1870, ch. 82.

292. In all cases of sales of real and leasehold estate heretofore made or hereafter to be made by any executor, administrator, administrator *de bonis non*, administrator with the will annexed, or administrator *de bonis non* with the will annexed, and the purchaser or purchasers shall fail, neglect or refuse to comply with the terms of sale as reported to and ratified by the court, it shall and may be lawful for