

ARTICLE LXVI.

MORTGAGES.

30-30A. Assignments of mortgage defectively sealed and mortgages | and assignments defectively sworn to, cured; provisos.

6.

Where a sale is made by a party in distinct reference to a power expressly and lawfully conferred upon him by the mortgage, the sale is valid, although the capacity in which the party acted was not correctly stated. *Barroll v. Benton*, 121 Md. 177.

To the first note to this section under the heading "Generally" on page 1521 of volume 2 of the Annotated Code, add the case of *Barroll v. Benton*, 121 Md. 177.

To the second note to this section on page 1522 of volume 2 of the Annotated Code, add the case of *Barroll v. Benton*, 121 Md. 176.

16.

A purchaser who has a valid contract for the sale of property by reason of the exercise of an option, may secure an injunction under this section, and is entitled to redeem the property when it is being sold under foreclosure of mortgage proceedings. Tender held sufficient to entitle plaintiff to injunction. Parties. *Wingert v. Brewer*, 116 Md. 518.

Unless these sections are complied with, no injunction to restrain a mortgage sale will ordinarily be granted. Requisites of bill; bill held insufficient. *Fowler v. Pendleton*, 121 Md. 300.

18.

There is no statute in this state authorizing equity to determine the damages sustained by a defendant by reason of the issue of an injunction against him unless such power is conferred by this section or by article 16, section 81; even if it were assumed that equity had such authority, it has never been the practice to exercise it. This section refers only to sales and proceedings under a power of sale contained in the mortgages referred to in this article, and has no application to injunctions to restrain proceedings to foreclose other mortgages; case disposed of without reference to this section. *American Bonding Co. v. State*, 120 Md. 316.

Where before sale under foreclosure proceedings it is observed that the bond required by this section as a prerequisite to an injunction has not been filed, the injunction should be dissolved and a new injunction issued upon the filing of the bond. Effect of *nunc pro tunc* order upon filing of bond. If the bond is not filed, the ratification of the sale may be excepted to by the party authorized to redeem the mortgage and who made a tender. *Wingert v. Brewer*, 116 Md. 521.

25.

Under this section, the title of a *bona fide* assignee of the person holding the record title to a mortgage, is not affected by prior unrecorded assignments and the mortgage debt is presumed to belong to the assignee. Assignee held to be not chargeable under the circumstances with notice of a prior assignment. *Morrow v. Stanley*, 119 Md. 597.