

This section is to be construed in connection with sec. 5, so that intent of legislature to effect that limitations should not apply to creditor whose debtor is out of state may prevail. *Mason v. Union Mills Co.*, 81 Md. 457; *Hysinger v. Baltzell*, 3 G. & J. 161.

Generally.

The statute of limitations affects the remedy, but not the debt or lien. *Farmers' Bank v. Iglehart*, 6 Gill, 58; *Donaldson v. Raborg*, 26 Md. 326; *B. & O. R. R. Co. v. Clark*, 19 Md. 520; *Oliver v. Gray*, 1 H. & G. 215; *Barney v. Smith*, 4 H. & J. 495; *Ohio Life Ins. Co. v. Winn*, 4 Md. Ch. 254.

While mortgage notes are barred after three years, the covenant in a mortgage is only barred after twelve years. *Earnshaw v. Stewart*, 64 Md. 516.

The reason and policy of the statute should be considered and applied by analogy in determining whether mandamus will lie. *George's Creek, etc., Co. v. Allegany County*, 59 Md. 262.

Limitations cannot be pleaded against claim of a grantee under a deed of trust with reference to proceeds of property so conveyed; *contra*, as to other property. *Gibbs v. Cunningham*, 4 Md. Ch. 325.

This section applied in a suit in *assumpsit* by heirs to recover damages for the failure of their warranty. *Flowers v. Foreman*, 23 How. 132.

As to the form and time of filing an issue from the orphans' court raising the question of limitations, see *Cook v. Carr*, 20 Md. 415.

The state may shorten the period of limitations. *State v. Jones*, 21 Md. 438.

An *assumpsit* after expiration of three years is not sufficient to take case out of statute, the action being founded on a tort. *Galligher v. Hollingsworth*, 3 H. & McH. 122.

The statute may be applied in favor of a plaintiff as well as of a defendant. *Watkins v. Dorsett*, 1 Bl. 532.

It is the duty of the court to give minor defendants the benefit of limitations. *White v. Joyce*, 158 U. S. 128.

No court of law or equity will assume as a matter of law, that limitations will be pleaded where it may be pleaded. *Burtles v. State*, 4 Md. 279.

If certain items in a bill of particulars, in a suit against a surety company on a construction bond, were not included in the unit price but were extras not provided for in contract, plaintiff has statute of limitations to contend with; when payment for such extras is due. *Md. Casualty Co. v. West Construction Co.*, 139 Md. 185.

When the only evidence as to when compensation for plaintiff's services was to be paid was, that same should be paid at death of decedent, and services were continued to time of his death, statute of limitations was held not a bar. *Marx v. Marx*, 127 Md. 382.

So long as administrator acts honestly, he will not be removed for failure to plead statute of limitations—see art. 93, sec. 100. *Duningan v. Cummins*, 115 Md. 297.

The question of whether statute of limitations was a bar to a suit held a mixed question of law and fact. When statute begins to run. *W., B. & A. R. R. Co. v. Moss*, 130 Md. 204.

The statutory period having expired, limitations was held a bar in following cases: *Albert v. Albert*, 74 Md. 535 (debt, father to son); *Dempsey v. McNabb*, 73 Md. 438 (claim for services); *Long v. Long*, 62 Md. 74 (bill for account of rents and profits); *Ecker v. First Nat. Bank*, 59 Md. 302 (promissory notes); *Hertle v. Schwartz*, 3 Md. 382 (bill to recover for property, conveyed as indemnity); *Hall v. Creswell*, 12 G. & J. 51 (claims in equity); *Baltimore, etc., Turnpike Co. v. Barnes*, 6 H. & J. 60 (subscription to stock); *West v. Jarrett*, 3 H. & J. 486 (rents and profits); *Ratric v. Sanders*, 2 H. & J. 327 (replevin); *Cawood v. Whetcroft*, 1 H. & J. 103 (*assumpsit*); *Thompson v. Dorsey*, 4 Md. Ch. 151 (charge for board); *White v. White*, 1 Md. Ch. 56 (bill for account for sales of stock). *Cf. Baltimore v. Ulman*, 79 Md. 482; *Donaldson v. Raborg*, 26 Md. 326; *Hoffman v. Smith*, 1 Md. 492; *Baltimore, etc., Turnpike Co. v. Barnes*, 6 H. & J. 60.

If a plaintiff mistakes his remedy, and pending the action limitations runs, he is barred. *Willard v. Wood*, 164 U. S. 523.

For a waiver of the statute of limitations, see *Cape Sable Co.'s Case*, 3 Bl. 672; *Welch v. Stewart*, 2 Bl. 41; *Strike's Case*, 1 Bl. 57.

For a case discussing legislative power to pass a law which revives a debt which has become barred by limitations, see *Hagerstown v. Sehner*, 37 Md. 189.

Where fraud is relied on to remove bar of statute, resort must be had to equity. (This case was decided before adoption of sec. 14.) *Negro Franklin v. Waters*, 8 Gill, 331.