

have been obtained against such purchaser, whether the mortgage is given to the vendor of the property so purchased or to a third party who advances the purchase money in whole or in part; provided, such mortgage recite that the sum so secured is in whole or in part the purchase money of the property purchased; provided, however, that nothing in this section shall be held or construed to affect rights existing on April 7, 1900.

Where a lessor simultaneously with execution of his lease takes a mortgage on leasehold interest, such mortgage has priority over previous judgments against lessee—this section indicates nothing to contrary. *Ahern v. White*, 39 Md. 417.

Prior to act of 1900, ch. 393, this section was held to apply only in case vendor was mortgagee. *Heuisler v. Nickum*, 38 Md. 275; *Glenn v. Clark*, 53 Md. 608.

See sec. 31.

An. Code, sec. 5. 1904, sec. 5. 1888, sec. 5. 1847, ch. 255. 1898, ch. 275.

5. The mortgagor in any deed of mortgage, in addition to the usual covenants, may covenant for the payment of all taxes, assessments, public dues or charges levied or to be levied by law on the mortgage debt created or secured by such mortgage. This section not to apply to mortgages executed after March 30, 1896.

Cited but not construed in Appeal Tax Court *v. Rice*, 50 Md. 319.

See art. 81, sec. 198, *et seq.*

An. Code, sec. 6. 1904, sec. 6. 1888, sec. 6. 1785, ch. 72. 1825, ch. 203, sec. 5. 1833, ch. 181, sec. 2. 1836, ch. 249, sec. 1. 1878, ch. 483.

6. In all mortgages there may be inserted a clause authorizing the mortgagee or any other person to be named therein to sell the mortgaged premises, whether lands or goods and chattels, upon such terms and on such contingencies as may be expressed therein, and where the interests in any mortgage are held under one or more assignments, or otherwise, the power of sale therein contained shall be held divisible, and he or they holding any such interest who shall first institute proceedings to execute such power shall thereby acquire the exclusive right to sell the mortgaged premises; and any sale made and set aside upon the ground that said power is indivisible may, by the court that set aside such sale, be reviewed on the petition of the person who made the same, or any other person interested therein, and said court may annul its former decree or order, and thereupon the same proceedings shall be had and the said court shall have the same full power as if such sale had not been set aside, and the said court may confirm such sale or set it aside for any other sufficient reason than that the aforesaid power is indivisible; provided, there has been no change of title or interest in the mortgaged premises since such sale.

Jurisdiction and procedure under this section.

This section and the following ones do not provide for exercise of a special jurisdiction, but simply a summary mode for exercise of general jurisdiction of a court of equity. *Cockey v. Cole*, 28 Md. 282; *Warehime v. Carroll County Bldg. Assn.*, 44 Md. 517. *Cf. Warfield v. Ross*, 38 Md. 90.

In sales under this section, the trust commences with filing of bond under sec. 7, and jurisdiction of court becomes complete on report of sale under sec. 9. *Warehime v. Carroll County Bldg. Assn.*, 44 Md. 518. And see *Wilson v. Watts*, 9 Md. 459; *Warfield v. Dorsey*, 39 Md. 308.

Sales under this section when brought within control of a court of equity are governed by same rules as other sales in equity. *Gaither v. Tolson*, 84 Md. 641; *Warfield v. Dorsey*, 39 Md. 302. And see *Albert v. Hamilton*, 76 Md. 308.