

An attachment, however, will lie up to the time the deed of trust is recorded and the trustee's bond filed, and a subsequent record of the deed and filing of the bond cannot affect an attachment already laid. *Stiefel v. Boston*, 73 Md. 412. See also *White v. Pittsburg Bank*, 80 Md. 1.

Funds or property in the hands of a trustee in equity.

Unascertained funds in the hands of a trustee in equity cannot be attached, because the garnishee cannot come in and confess the amount in his hands. *Cockey v. Leister*, 12 Md. 129; *Bentley v. Shrieve*, 4 Md. Ch. 412.

Where a final audit fixes the amount due by a trustee to a debtor, the money may be attached, and where a portion of such fund has been assigned prior to such attachment, the balance of the fund may be condemned. *Williams v. Jones*, 38 Md. 566. See also *Cockey v. Leister*, 12 Md. 129.

If the share of the debtor in the fund in the hands of a trustee is ascertained at any time before trial of the attachment, it may be condemned. *McPherson v. Snowden*, 19 Md. 232; *Groome v. Lewis*, 23 Md. 149; *Hardesty v. Campbell*, 29 Md. 537; *Early v. Dorsett*, 45 Md. 467.

And accounts may be suspended by a court of equity for a reasonable time, in order that the attaching creditor may obtain judgment of condemnation and thus make his attachment effective. *Early v. Dorsett*, 45 Md. 468.

A contingent or uncertain interest in a trust estate which could not be definitely ascertained and was not susceptible of appraisal, held not attachable. *Safe Depos. & Tr. Co. v. Ind. Brew. Asso.*, 127 Md. 468.

Property left in trust.

The following bequests in trust are held not to be subject to attachment in the hands of a trustee by a creditor of the *cestui que trust*: Property bequeathed so that the same shall not be liable "To be taken in execution or attachment or otherwise howsoever, and so that she shall not pledge or anticipate it." *Read v. Safe Deposit, etc., Co.*, 86 Md. 464.

An income bequeathed to be paid to the beneficiary "Into his own hands and not into another, whether claiming by his authority or otherwise." *Smith v. Towers*, 69 Md. 77.

An income bequeathed for the support of the testator's son and his family. "But my will is that my said son shall have no power to charge, encumber or anticipate the said income." *Jackson Sq., etc., Assn. v. Bartlett*, 95 Md. 661.

Where, however, the income from property is left in trust for L. for life, "The said share to be securely invested as soon as declared, and after her death to be equally divided between her children," such income is liable to attachment. *Baker v. Keiser*, 75 Md. 332.

Property in the hands of an insolvent trustee.

After the conveyance of property to a trustee under our insolvent laws, a non-resident creditor, like a resident creditor, cannot attach. *Pinckney v. Lanahan*, 62 Md. 447 (overruling early cases to the contrary).

Where property is attached in the hands of a conventional trustee, and just after the attachment the defendant goes into insolvency, the further prosecution of the attachment is stopped, but the inchoate lien acquired by the plaintiff in the attachment is transferred to the property in the hands of the insolvent trustee, and will be respected by the insolvent court. *Buschman v. Hanna*, 72 Md. 1. See also *Thomas v. Brown*, 67 Md. 517; *Lynch v. Roberts*, 57 Md. 150.

But the insolvent trustee may intervene in the attachment case and move to quash. *Palmer v. Hughes*, 84 Md. 657.

Where defendant in attachment goes into bankruptcy.

Funds in the hands of a trustee in bankruptcy are not subject to attachment. *Newman v. Fisher*, 37 Md. 262.

While under the bankrupt law an attachment within four months prior to the bankrupt proceedings is void, the attachment is valid if laid prior to such period. *Franklin v. Clafin*, 49 Md. 46. See also *Lewis v. Higgins*, 52 Md. 617.

If the attachment is prosecuted to final judgment before the bankrupt proceedings are begun, the attachment cannot be attacked collaterally, even though sued out within the four months' period. *Henkleman v. Smith*, 42 Md. 177 (based on the bankruptcy act of 1867).

As to pleading the pendency of bankruptcy proceedings in the short-note and attachment cases, see *Lewis v. Higgins*, 52 Md. 614.

And see notes to sec. 19.