

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.

This section applies where a man who is named executor in a will dies after testator, but before the will has been probated. Hence a power of sale given to such executor vests in administrator *d. b. n.* appointed by orphans' court after former's death. Sale upheld. Purpose and scope of this section. Effect of probate of a will. Title of executor and administrator contrasted. *Murray v. Conley, et al.*, 124 Md. 220.

Where a will directs executor to sell real estate upon death of life tenant but the executor is removed during life of life tenant, upon latter's death orphans' court has jurisdiction under this section, but jurisdiction of equity under art. 16, sec. 97, is not interfered with, and jurisdiction first invoked prevails. *Wright v. Williams*, 93 Md. 69.

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

This section has no application if executor dies in lifetime of testator and hence power of sale never vests. *Wilcox 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 sec. 299—see notes thereto. *Warehime v. Graf*, 83 Md. 101.

See notes to sec. 299.

An. Code, sec. 292. 1904, sec. 289. 1888, sec. 284. 1865, ch. 162, sec. 2. 1870, ch. 82.

301. 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 terms of sale as reported to and ratified by the court, it shall and may be lawful for the orphans' court of the several counties of the State and the city of Baltimore, upon the application of such executor, administrator, administrator *de bonis non*, administrator with the will annexed, or administrator *de bonis non* with the will annexed, to pass an order requiring such purchaser or purchasers to comply with said terms of sale, or show good cause to the contrary, on or before a certain day to be limited in said order; and upon failure to comply with such terms of sale, or show good cause to the contrary on or before the day limited in such order, it shall and may be lawful for the said orphans' courts to order a re-sale of such real or leasehold estate at the risk and cost of the purchaser or purchasers, or to enforce compliance of any order passed upon such application by attachment.

If property sells for a larger sum on resale than on first sale, defaulting purchaser is entitled to excess after proper expenses deducted. *Mealey v. Page*, 41 Md. 183.

This section applied, notwithstanding an alleged indebtedness of the estate to the purchaser. *Schwallerberg v. Jennings*, 43 Md. 559.

This section referred to in construing sec. 299—see notes thereto. *Warehime v. Graf*, 83 Md. 102.

See art. 16, sec. 239.

An. Code, sec. 293. 1904, sec. 290. 1888, sec. 285. 1865, ch. 162, ch. 3. 1866, ch. 81.

302. The orphans' courts of the State shall have concurrent jurisdiction with the several circuit courts of this State, as courts of equity, with