

cases where the interests are concurrent. *Roche v. Waters*, 72 Md. 269; *Gill v. Wells*, 59 Md. 499; *Forbes v. Littell*, 138 Md. 214. Cf. *Tolson v. Bryan*, 130 Md. 340.

The bill of a concurrent owner held to be in strict conformity with this section. The test of the court's jurisdiction is whether a demurrer will lie to the bill; the court is not divested of its jurisdiction merely because the answer and proof deny the plaintiff's legitimacy. *Barron v. Zimmerman*, 117 Md. 298.

Jurisdiction of equity to order a sale in lieu of partition upheld, although there was no allegation in the bill that a division in kind could not be made without loss or injury. Jurisdiction having been assumed, other suitable relief may be afforded. Bill not demurrable. *Young v. Diedel*, 141 Md. 671.

A bill filed under this section, held not to be multifarious. *Littell v. Littell*, 137 Md. 690.

A bill of complaint held not to be in conformity with this section. Necessary allegations under this section. *Fox v. Reynolds*, 50 Md. 570. Cf. *Slingluff v. Stanley*, 66 Md. 224; *Wilson v. Green*, 63 Md. 548; *Mewshaw v. Mewshaw*, 2 Md. Ch. 13.

The description of the property in the bill, held sufficient. *Thruston v. Minke*, 32 Md. 573.

A bill for partition, and also seeking the enforcement and foreclosure of a mortgage on the same land, is multifarious. *Belt v. Bowie*, 65 Md. 351.

For cases involving the question of whether there is a sufficient allegation that the property "cannot be divided without loss or injury," see *Ballantyne v. Rusk*, 84 Md. 650; *Wilson v. Green*, 63 Md. 548; *Thruston v. Minke*, 32 Md. 576.

This section inapplicable.

Where certain parties own a one-fourth undivided interest in property, neither a partition among them nor a sale, under this section, can be had—partial partition cannot be made. A sale cannot be decreed except under such circumstances as justify a partition. *Dugan v. Baltimore*, 70 Md. 5.

Where a testator gives property to trustees to hold for the benefit of his daughter for life, and then (in case of her death without issue), for the benefit of such of his children and descendants, as said daughter might by will appoint, she being, moreover, given the power to dispose absolutely by will of certain money held by the trustees; and the daughter by her will executes the power by giving certain real property to one niece, pecuniary legacies to others and the sum of money which she was authorized to dispose of absolutely, to a third party; held that the trustees upon the death of the life tenant, had no such interest in the property as entitled them to ask for a sale for partition. If the trustees have no money with which to pay the pecuniary legacies, they have an implied power of sale for that purpose, in the absence of an agreement obviating same. *Harrison v. Denny*, 113 Md. 519.

A trustee for the benefit of creditors to whom has been assigned a one-half interest in property, held not authorized to file a bill for partition. *Ritchie v. Munder*, 49 Md. 12.

A mortgagee of an undivided interest cannot file a bill for partition under this section. *Mitchell v. Farrish*, 69 Md. 238. And see *Williams v. Harlan*, 88 Md. 4; *Bannon v. Comegys*, 69 Md. 418.

A Maryland court of equity will not decree partition of lands located in another state. *White v. White*, 7 G. & J. 208.

Exceptions to title.

Where all parties are of legal age and the defendants admit the allegations of the bill, the fact that no testimony is taken in support of such allegations does not vitiate purchaser's title, and is not a ground of exceptions thereto. *Scarlett v. Robinson*, 112 Md. 204; *Slingluff v. Stanley*, 66 Md. 220; *Bolgiano v. Cooke*, 19 Md. 394. Cf. *Earle v. Turton*, 26 Md. 33 (involving infants).

The erroneous action of the court on matters not jurisdictional, cannot be raised collaterally, and does not affect the title of a purchaser under this section. *Benson v. Benson*, 70 Md. 258; *Dugan v. Baltimore*, 70 Md. 7; *Slingluff v. Stanley*, 66 Md. 220; *Downs v. Friel*, 57 Md. 536; *Bolgiano v. Cooke*, 19 Md. 392. And see *Scarlett v. Robinson*, 112 Md. 206.

Generally.

While every tenant in common is entitled to the separate enjoyment of his interest either by partition or sale in lieu thereof, equity will adapt its methods to the exigencies of justice to protect equitable rights. Where one tenant in common pays a charge or encumbrance upon the common property, he is entitled to contribution from his co-tenant, and as against his co-tenant, to an equitable lien for the amount due him. Effect of a divorce on property held as tenants by the entirety. *Meyers v. Loan & Sav. Ass'n*, 139 Md. 613.