

not affect the right of action on the covenants to pay the mortgage debt. *Commercial Bldg. Assn. v. Robinson*, 90 Md. 632 (separate opinion).

As to decrees *in personam*, see also art. 66, sec. 24.

No application.

This section has no application to a sale of stock to pay debts due by the stockholder to a bank. *Reese v. Bank of Commerce*, 14 Md. 284.

This section has no application to a bill by a creditor of a mortgagor seeking a sale of his real estate. Purpose of this section. *Gibson v. McCormick*, 10 G. & J. 102.

This section does not affect the question of whether covenants run with the land. *Commercial Bldg. Assn. v. Robinson*, 90 Md. 632 (separate opinion).

Generally.

Object of this section. It contemplates that no more of the mortgaged premises should be sold than is practically unavoidable to pay the debt and expenses. *Thomas v. Fewster*, 95 Md. 449; *Johnson v. Hambleton*, 52 Md. 386; *Boteler v. Brookes*, 7 G. & J. 143.

This section contemplates the division of the mortgaged property into lots, if such division would produce more advantageous results. *Johnson v. Hambleton*, 52 Md. 386.

While ordinarily a defendant is entitled to have a day given him to bring the money into court, yet he may waive such privilege by his answer, or by a stipulation in the mortgage that upon default, the mortgagee "may forthwith foreclose," etc. *Johnson v. Robertson*, 31 Md. 487; *Dorsey v. Dorsey*, 30 Md. 528; *David v. Grahame*, 2 H. & G. 98.

A sale directed to be made on a credit of twelve months, is equivalent to a day being given for the payment of the debt. *David v. Grahame*, 2 H. & G. 98.

This section construed in connection with sec. 237—see notes thereto. *Dorsey v. Dorsey*, 30 Md. 528.

For cases construing the act of 1785, ch. 72, sec. 3, see *Boteler v. Brookes*, 7 G. & J. 143; *Andrews v. Scotton*, 2 Bl. 666.

See sec. 236. As to parties, see secs. 193 and 197, *et seq.*

As to mortgages, see art. 66.

As to tax sales, see art. 81, sec. 58, *et seq.*

As to the ratification *nisi* of sales by the clerks of the courts having jurisdiction, see art. 17, sec. 36.

An. Code, sec. 218. 1904, sec. 203. 1888, sec. 188. 1785, ch. 72, sec. 5. 1785, ch. 78.

1789, ch. 46. 1790, ch. 38. 1794, ch. 60. 1795, ch. 88, sec. 3. 1818, ch. 193, sec. 2.

1833, ch. 150, sec. 1. 1864, ch. 360. 1890, ch. 320. 1900, ch. 320.

1922, ch. 330, sec. 218.

233. Where any person dies, or shall have died, leaving any real estate in possession, remainder or reversion, and not leaving personal estate sufficient to pay his debts and costs of administration, the court, on any suit instituted by any of his creditors, may decree that all the real estate of such person, or so much thereof as may be necessary, shall be sold to pay his debts; and the funeral expenses of the decedent, to be allowed in the discretion of the court according to the condition and circumstances of the deceased, not to exceed three hundred dollars, except by special order of court, and provided the estate of the deceased be solvent, shall be considered the debt of said decedent, and in the distribution of the proceeds arising from any sale under this section, the claim for funeral expenses shall take priority to all claims of the common creditors of the deceased. This section to apply to all cases where the heirs or devisees are residents or non-residents, or are of full age, or infants, or of sound mind, or *non compos mentis*, and to cases where the parties left no heirs, or where it is not known whether he left heirs or devisees, or, if the heirs or devisees be