

A defectively executed and unrecorded bill of sale or mortgage is effectual as against the vendor and all claiming under him. *Gough v. Edehn*, 5 Gill, 103; *Clagett v. Salmon*, 5 G. & J. 346; *Dorsey v. Smithson*, 6 H. & J. 63. See also *Ing v. Brown*, 3 Md. Ch. 521.

This section is intended for the protection of purchasers, lienors and subsequent creditors without notice. A bankrupt trustee may assert the invalidity of an unrecorded contract reserving title to certain supplies sold, as regards creditors without notice. *Roberts & Co. v. Robinson*, 141 Md. 49.

While this section does not apply to conditional sales where the vendors part with possession, it does apply when *bona fide* purchasers for value are concerned. The words "is accompanied by delivery" mean not a *constructive* but an *actual* delivery, so far as *bona fide* purchasers are concerned. See notes to art. 83, sec. 25. *Stem v. Crawford*, 133 Md. 589.

Application of this section.

The vendor held not to have remained in possession of the property, and hence the application of this section denied. *Biemiller v. Schneider*, 62 Md. 559; *Pusey v. Potomac Bridge Co.*, 8 Md. 478; *Bryan v. Hawthorne*, 1 Md. 523.

This section has no reference to a case where the title has been vested by the laws of another state, but operates only on sales, mortgages and gifts made in Maryland. *Bank of United States v. Lee*, 13 Pet. 120.

This section applies where vendor sells property and retains possession; it has no application to conditional sales where vendor parts with possession. See notes to art. 83, sec. 22. *Dinsmore v. Maag-Wahmann Co.*, 122 Md. 182; *Praeger v. Emerson, etc., Implement Co.*, 122 Md. 308.

Generally.

This section referred to as showing that mortgagee does not become entitled to substituted or after-acquired chattels. *Crocker v. Hopps*, 78 Md. 263.

A bill of sale held to be void under this section and sec. 53, and that there was no proof of such a delivery as would defeat the operation of this section. *Mundy v. Jacques*, 116 Md. 13.

In view of this section and of secs. 46, 48, 49 and 51, a chattel mortgage on a vessel not documented, which was not recorded as required, did not create a lien as against the mortgagor's trustee in bankruptcy. Purpose of the above sections. *Millikin v. Second Natl. Bank*, 206 Fed. 16.

Where the mortgage has been duly sworn to and recorded, it has the same effect as if the mortgagee had been put in possession of the mortgaged property. *Cahoon v. Miers*, 67 Md. 579; *Clary v. Frayer*, 8 G. & J. 398; *Hamilton v. Hayward*, 4 H. & J. 443.

A bill of sale held to be duly executed, acknowledged and recorded as required by this section. *Kreuzer v. Cooney*, 45 Md. 590; *Bruce v. Smith*, 3 H. & J. 503. Cf. *Coale v. Harrington*, 7 H. & J. 155.

For a mortgage recorded in the wrong court, and hence a copy thereof held not admissible in evidence, see *Gassaway v. Dorsey*, 4 H. & McH. 405.

Title held invalid because of failure to comply with this section. *Warnick v. Michael*, 11 G. & J. 159.

This section referred to in construing sec. 53. *Pleasanton v. Johnson*, 91 Md. 676; *Mackintosh v. Corner*, 33 Md. 606.

For forms of a bill of sale and chattel mortgage, see secs. 65 and 66.

As to defective conveyances, see sec. 84, *et seq.*

As to railroad equipment and rolling stock, see sec. 93.

As to how and where clerks are to record and index bills of sale, etc., see art. 17, secs. 3 and 59.

As to petty loans, see art. 58A.

An. Code, sec. 44. 1904, sec. 42. 1888, sec. 41. 1856, ch. 154, secs. 124, 125.

45. Any bill of sale of personal property shall be sufficient in form if it contain the names of the parties, the consideration, a description of the property conveyed, and be signed and sealed by the vendor, and dated.

As to an implied covenant to pay the mortgage debt, see sec. 50.

See also sec. 4, *et seq.*