

237.

Where court has assumed jurisdiction of trust, it may under this section order sale of trust property before final decree. *Elkton Electric Co. v. Perkins*, 145 Md. 238, 249.

239.

Judgment *in personam* entered before order *nisi* is passed and served on defaulting purchaser in case of foreclosure sale, is void, and may be collaterally attacked by creditor of defaulting purchaser. *Mercantile Bank v. Md. Title Guar. Co.*, 153 Md. 324.

This section applies to sales under powers as well as to sales by trustees appointed by court. Court is vendor in resale. *Bilbrey v. Strahorn*, 153 Md. 495.

Where purchaser has failed to comply with terms of sale, the court may, on application of trustee appointed to make the sale, order resale at purchaser's risk. *Miller v. Mitnick*, 163 Md. 114.

243.

All parties in interest and in being who entitled if contingency had happened at date of decree, must be parties to proceedings, and sale must appear to be advantageous to all parties concerned. Bill need not allege in words that sale advantageous. *Peper v. Traeger*, 152 Md. 176.

Equity has no jurisdiction to direct sale of property free from wife's inchoate dower, as that is right which cannot be extinguished except by release. This section not applicable. *Roth v. Roth*, 144 Md. 554.

To third note to this section on page 530 of Code, add *Roth v. Roth*, 144 Md. 555.

To first note under this section, on page 529, vol. 1. of Code, add *Gittings v. Morris*, 156 Md. 575.

Where trustee appointed to make sale of land limited in remainder, in selling part of the land imposed certain restrictions on the part not sold, held that such restrictions were binding on remaindermen. *Gittings v. Morris*, 156 Md. 565.

Where trustee appointed to sell land and re-invest funds, and proceeds distributed by auditor's report to same person as trustee for benefit of life tenant in accordance with will, the order ratifying the auditor's report and directing the trustee to pay out the fund accordingly, did not relieve surety on bond. *Fld. & Dep. Co. v. State*, 164 Md. 311.

Specific Performance.**246.**

This section applies to contract by corporation for sale of its stock, formula, etc., even if there is remedy at law; not necessary to give defendant opportunity to show he had property or give bond for damages, leave having been granted him to file answer after date of order. This section valid. *Neal v. Parker*, 98 Md. 254, affirmed. *Balto. Process Co. v. My-Coca Co.*, 144 Md. 444.

Remedy at law no ground for denying specific performance in absence of bond or property sufficient to pay damages. When specific performance will be decreed. Testimony contradictory and irreconcilable and witnesses same in number; relief refused without prejudice. *Pattison v. Brydon*, 150 Md. 582.

When plaintiff testifies that defendant's credit was good, jurisdiction of equity is ousted if there is adequate remedy at law. *Hearn v. Ruark*, 148 Md. 361.

Failure of pleadings to show that complainant has no remedy at law is not fatal. *Brummel v. Realty Co.*, 146 Md. 65.

This section has no application, as defendant had adequate property to pay damages and costs. *Rolling Mill Co. v. Michlovitz*, 157 Md. 65.

Trustee.**247.**

As to sales by executors and administrators, see art. 93, sec. 290, *et seq.* As to application of purchase money, contingent remainders, apportionments of rents, etc., see art. 93, sec. 305A, *et seq.*

As to fiduciaries, see art. 37A.