

with interest thereon from the day of sale, and in such instalments as the court shall direct; which bonds shall remain and be a lien on the lands for the purchase of which they were given, until the said bonds shall be paid.

See notes to secs. 27 and 31.

An. Code, 1924, sec. 30. 1912, sec. 55. 1904, sec. 55. 1888, sec. 55. 1820, ch. 191, sec. 22.

31. It shall not be necessary, if the court shall deem it to be the interest of all persons concerned, for the purchaser of any part of the real estate of any person dying intestate, which may be sold by commissioners, or where any one or more of the representatives of such intestate shall elect to take the same, or any part thereof, at the valuation made by commissioners, to give bond to each of the representatives of such intestate; but such purchaser or person who may elect to take such real estate, or any part thereof, may give bond to the State of Maryland, in such penalty and with such sureties as the court shall direct and approve, conditioned for the payment of the amount of the valuation or purchase money (as the case may be), to the legal representatives of such intestate, in such proportions as each may be entitled to, agreeably to the order of the court; which bond shall be and remain a lien on the said real estate until the money intended to be secured thereby shall be wholly paid, and the said bond shall be recorded among the records of the court from which the commission may have issued; and upon such bond, or any office copy thereof, suit or suits may be instituted against the obligors therein, or any of them, for any breach of the condition thereof by any person interested therein.

This section repudiates everything like an equitable lien, and liability on bond provided for therein can only be enforced at common law. Waiver and extinction of lien. *Ridgely v. Iglehart*, 3 Bl. 546. *Cf. B. & O. R. R. Co. v. Trimble*, 51 Md. 107.

There may be a proceeding in equity to enforce the lien given by this section, regardless of bond and its liability at law. Fact that land has been sold, immaterial. Proper parties. *Ridgely v. Iglehart*, 6 G. & J. 51. *Cf. Stem v. Cox*, 16 Md. 534.

Until court has passed an order as to proportions to which representatives of intestate are entitled, no recovery can be had on bond. The words "agreeably to the order of the court," construed. *Thompson v. State*, 4 Gill, 165. And see *Ridgely v. Iglehart*, 6 G. & J. 51.

This section implies a preceding order of court before it can be complied with, or a non-compliance can amount to a default. *Jenkins v. Simms*, 45 Md. 538.

Cited but not construed in *Iglehart v. Armiger*, 1 Bl. 519.

See notes to secs. 27 and 41.

An. Code, 1924, sec. 31. 1912, sec. 56. 1904, sec. 56. 1888, sec. 56. 1856, ch. 127.

32. In all cases in which commissioners appointed under this article shall be ordered by the court to make sale of real estate and in accordance with said order shall offer the said real estate at public auction and the same shall be bid off by some purchaser, and the said purchaser shall refuse or neglect to comply with the terms of sale, it shall be lawful for the commissioners to re-sell the real estate upon the notice contained in the order aforesaid; and if it sell for less than at the first sale, to compel, by suit or action to be instituted in their name as commissioners, the purchaser at the first sale to pay over the difference or loss that may be sustained between the first and second sales; provided, a memorandum be made and signed by the auctioneer at the time of sale, in writing, containing the names of the parties, the amount and terms of sale.