

virtue of the authority supposed to be contained in said mortgage, and by virtue of authority supposed to be conferred by section 5 of article 64 of the code of public general laws of 1860, now embodied in section 6 of this article, and which said sale has been duly reported to the court having jurisdiction in such cases and by said court after order *nisi*, and due publication thereof or other proper legal proceeding finally ratified and confirmed is hereby made valid and effectual to all intents and purposes as fully as if the person so making said sale had been named in said mortgage as the person to make said sale or to execute said power of sale; and this section shall apply to all cases whether the person making said sale was named by a mortgagee being a natural person or by a mortgagee being a body corporate.

This section is constitutional and covers a case pending at time of its passage. It applies to a sale made in 1872 under a power of sale contained in a mortgage to a corporation, the power being conferred upon the "solicitor" of corporation. *Madigan v. Workmen's Bldg. Assn.*, 73 Md. 319. And see *Stump v. Warfield*, 104 Md. 548.

An. Code, 1924, sec. 24. 1912, sec. 24. 1904, sec. 24. 1892, ch. 111, sec. 24. 1939, ch. 507.

**25.** If upon the sale of the whole mortgaged property by virtue of a power of sale contained in the mortgage under the provisions of this Article, the net proceeds thereof, after the costs and expenses allowed by the court are satisfied, shall not suffice to pay the mortgage debt and accrued interest as the same shall be found and determined by the judgment of the court upon the report of the auditor thereof, the court may, upon the motion of the plaintiff, the mortgagee or his legal or equitable assignee, provided said motion is made within three years after final ratification by the court of the auditor's report and account in regard to the mortgage sale filed therein following the mortgage sale, after due notice by summons or otherwise as the court may direct, enter a decree *in personam* against the mortgagor or other party to the suit or proceeding who is liable for the payment thereof for the amount of such deficiency; provided, the mortgagee or his legal or equitable assignee would be entitled to maintain an action at law upon the covenants contained in the mortgage for said residue of said mortgage debt so remaining unpaid and unsatisfied by the proceeds of such sale or sales, which decree shall have the same effect and be a lien as in the case of a judgment at law and may be enforced only in like manner by a writ of execution in the nature of a writ of *feri facias* or by attachment or otherwise.

Deficiency decree against wife properly entered under this section, though she may not have been fully aware of contents of note and mortgages. *Kushnick v. Lake, etc., Assn.*, 153 Md. 638, distinguished. *Bletzer v. Cooksey*, 154 Md. 574.

If sale of mortgaged property fails to satisfy mortgage debt, interest and costs, the mortgagee may proceed as common creditor against mortgagor for the balance unless he is estopped by his deed or acts *in pais*. *Mizen v. Thomas*, 156 Md. 319.

Cited but not construed in *Prodis v. Constantinides*, 167 Md. 36.

Petition under this section not available if barred by art. 53, sec. 3. *County Trust Co. v. Harrington*, 168 Md. 101.

Cited in *Carrollton Bank v. Hollander* (Judge Smith, Circuit Court of Baltimore City), *Daily Record*, Mar. 7, 1939.

See sec. 34.

See art. 16, sec. 241.

An. Code, 1924, sec. 25. 1912, sec. 25. 1904, sec. 25. 1892, ch. 392, sec. 25. 1910, ch. 719 (p. 202).

**26.** The title to all promissory notes and other instruments hereafter made, and debts hereafter contracted, secured by mortgage or deeds in the nature of a mortgage, shall both before and after the maturity of such