

notes, other instruments or debts, be conclusively presumed to be vested in the person, persons or body corporate holding the record title to such mortgage or deed in the nature of a mortgage; and if such mortgage or deed in the nature of a mortgage is duly released of record, the promissory notes, other instruments or debts secured by such mortgage or deed in the nature of a mortgage, shall both before and after the maturity of such promissory notes, other instruments or debts, be conclusively presumed to be paid so far as any lien upon the property conveyed by said mortgage or deed in the nature of a mortgage is concerned.

Notwithstanding this section, in view of art. 16, sec. 36, and art. 21, secs. 20 and 22, and sec. 45, *et seq.*, when corporation transfers mortgage note, the debt, as between holder of mortgage and assignee of notes, becomes property of latter, and mortgage is held by mortgagee in trust for assignee. Rights of such assignee superior to subsequent judgment creditor of assignor, as well as to prior general creditors or trustee in bankruptcy. Object of this section. *In re Bowling Const. Corp.*, 19 Fed. (2nd), (Dist. Ct. Md.), 604. (Affirmed in *Sapero v. Neiswender*, 23 Fed. (2nd), (C. C. A. 4th), 403, pointing out that a contrary construction would nullify provision of art. 13, secs. 49, 50, 70, 71, 75 and 76.)

This section determines ownership of debt secured by mortgage only as it affects conflicting claims with respect to rights under mortgage or in property embraced therein. *Sapero v. Neiswender*, 23 F. (2nd), (C. C. A. 4th), 405.

Mortgage clause on insurance policy held not to enure to benefit of purchasers of property under foreclosure. *Royal Ins. Co. v. Drury*, 150 Md. 229.

Where mortgagee has assigned mortgage and mortgagor in ignorance of it pays interest and principal to mortgagee, who dies without turning money over to assignee, mortgagor, and not assignee, must bear loss. *Bowen v. Kelbaugh*, 147 Md. 367; *Sennett v. Taylor*, 157 Md. 110.

Holder of 2/5 in amount of mortgage notes, assigned them, without assigning any interest in mortgage, and subsequently assigned 1/5 interest in mortgage to bank with fraudulent notes (the bank taking them and assignment in good faith), assignees of notes not having recorded them and bank having recorded assignment, held bank entitled to 1/5 of proceeds of sale and assignees of notes to 1/5. *National Bank v. Schlosser*, 152 Md. 614.

Not clear, in view of this section, how mortgage note can be negotiable; note and mortgage parts of same transaction. Note not mortgage note. *Nussey v. Hazard*, 148 Md. 350.

A "mortgage participation certificate" is not an assignment of mortgage, since issuing company remains mortgagee of record. Holder of title in mortgage. Certificate taxable. *Baltimore v. Harper*, 148 Md. 239.

The fact that one of the tenants by the entireties of recorded mortgage endorsed the notes secured thereby to her husband, the other tenant, did not divest her of her rights under the mortgage. *Whitelock v. Whitelock*, 156 Md. 115.

The use of the word "debts", as distinguished from notes, does not show intention to confer on strangers to mortgage, other than assignees of the debt, notes or mortgage, rights not before existent. *Bank & Trust Co. v. College*, 167 Md. 647.

Where bank, which had money deposited by school, also held mortgage on school, which had previously been sold to another bank, but later bought back out of uninvested trust funds, held *prima facie* presumption that bank held it as trustee. *Hagerstown Bank & Tr. Co. v. College*, 167 Md. 646.

Cited but not construed in Balto. *Amer. Ins. Co. v. Ulman*, 165 Md. 640; *Williams v. Safe Dep. & Tr. Co.*, 167 Md. 504.

Under this section, title of a *bona fide* assignee of person holding record title to a mortgage, is not affected by prior unrecorded assignments and mortgage debt is presumed to belong to assignee. Assignee held to be not chargeable under circumstances with notice of prior assignment. *Morrow v. Stanley*, 119 Md. 597.

Object of this section. The court will not presume that a similar statute is in force in District of Columbia. This section only applies to mortgages recorded in this state. *Dickey v. Pocomoke Bank*, 89 Md. 295 (decided prior to the act of 1910, ch. 719). And see *Getz v. Johnston*, 143 Md. 548.

For the law on this subject prior to the act of 1892, ch. 392, see *Demuth v. Old Town Bank*, 85 Md. 323; *Dickey v. Pocomoke Bank*, 89 Md. 295.

This section held inapplicable to a mortgage given in 1889. *Cacy v. Slay*, 127 Md. 499. See sec. 36 and notes to art. 21, sec. 35.

An. Code, 1924, sec. 26. 1912, sec. 26. 1904, sec. 26. 1900, ch. 457, sec. 26.

27. Whenever any real estate or leasehold interest therein is encumbered by a mortgage, deed or other instrument in the nature of a mortgage,