

This section has no application to a sale of mortgaged premises (for collection of mortgaged debt) by executors of assignee of mortgage. *Chilton v. Brooks*, 71 Md. 451. *Cf. Williamson v. Morton*, 2 Md. Ch. 102.

It is intimated that this section applies to sale of a mortgage by an executor by an assignment thereof for private purposes. *Williamson v. Morton*, 2 Md. Ch. 102. *Cf. Chilton v. Brooks*, 71 Md. 451.

This section has no application to sales made before its adoption; law prior thereto. *Seldner v. McCreery*, 75 Md. 292; *Mitchell v. Williamson*, 6 Md. 216; *Miller v. Williamson*, 5 Md. 230; *Lark v. Linstead*, 2 Md. 427; *Albert v. Savings Bank of Baltimore*, 2nd 168; *Lark v. Linstead*, 2 Md. Ch. 167; *Phippard v. Forbes*, 4 H. & McH. 481.

Where an executor conveys property in accordance with sec. 83, he need not obtain an order to sell under this section. *Stewart v. Griffith*, 217 U. S. 331.

This section applied. *Crow v. Hubard*, 62 Md. 563.

This section referred to in deciding that a third party (an executor *de son tort*) cannot pass title to a decedent's property. *Rockwell v. Young*, 60 Md. 568.

This section construed in connection with secs. 298 and 301—see notes thereto. *Brooks v. Bergner*, 83 Md. 354.

This section referred to in construing sec. 298—see notes thereto. *Weinstein v. Boyd*, 136 Md. 233.

This section referred to in construing sec. 251—see notes thereto. *Carlyslie v. Carlyslie*, 10 Md. 447.

Cited but not construed in *Murray v. Hurst*, 163 Md. 489.

See secs. 182, 296, 298 and 301 and notes.

Re. preference of taxes in proceeds of sales by ministerial officers, see art. 81, sec. 92.

An. Code, 1924, sec. 294. 1912, sec. 285. 1904, sec. 282. 1888, sec. 277. 1843, ch. 304, sec. 2.

296. If any executor or administrator shall sell or remove any property without an order of the orphans' court, the orphans' court may revoke his letters as soon as they are satisfied of such sale or removal having taken place, and appoint an administrator, whose duty it shall be immediately to proceed to get possession of the property so sold or removed; and the orphans' court may authorize the administrator so appointed by them to employ an attorney or attorneys to assist in the recovery of said property and determine the amount of fees to be paid therefor; and any cost or expense incurred in getting possession of said property, ascertained and awarded to be paid by the said court, shall be paid by the person or persons whose letters have been revoked, and may be recovered by an action on his testamentary or administration bond, at the suit of the newly appointed administrator.

Where an executor invests money belonging to estate in property which he afterwards sells, such sale requires an order of court to make it valid. A mortgage is "property" within meaning of this section. *Alexander v. Fidelity Co.*, 108 Md. 546.

The act of an executor in transferring stock of decedent to himself and selling same without order of court justifies his removal. When executor may be removed. *Levering v. Levering*, 64 Md. 411.

An. Code, 1924, sec. 295. 1912, sec. 286. 1904, sec. 283. 1888, sec. 278. 1843, ch. 304, sec. 3.

297. Where there are two or more executors or administrators, and the sale or removal has been made without the consent of all, the revocation shall only extend to the person or persons so offending, and the remaining executor or administrator shall have full power and authority to discharge all the duties connected with his office as if no revocation had been made.

Cited but not construed in *Murray v. Hurst*, 163 Md. 489.

See sec. 183.

An. Code, 1924, sec. 296. 1912, sec. 287. 1904, sec. 284. 1888, sec. 279. 1843, ch. 304, sec. 4. 1937, ch. 444.

298. Nothing contained in the three preceding sections shall be construed to apply to any cases where an executor shall be authorized by will of his testator to make sale of any property, without application to any Court, and the word "Court" shall be construed to include the Orphans' Court.