

or before a certain day to be limited in said order; and upon failure to comply with such terms of sale, or show good cause to the contrary on or before the day limited in such order, it shall and may be lawful for the said orphans' courts to order a re-sale of such real or leasehold estate at the risk and cost of the purchaser or purchasers, or to enforce compliance of any order passed upon such application by attachment.

If property sells for a larger sum on resale than on first sale, defaulting purchaser is entitled to excess after proper expenses deducted. *Mealey v. Page*, 41 Md. 183.

This section applied, notwithstanding an alleged indebtedness of the estate to the purchaser. *Schwallenberg v. Jennings*, 43 Md. 559.

This section referred to in construing sec. 301—see notes thereto. *Warehime v. Graf*, 83 Md. 102.

See art. 16, sec. 248.

An. Code, 1924, sec. 302. 1912, sec. 293. 1904, sec. 290. 1888, sec. 285. 1865, ch. 162, sec. 3. 1866, ch. 81.

304. The orphans' courts of the State shall have concurrent jurisdiction with the several circuit courts of this State, as courts of equity, with like powers to adopt rules and regulations, so as to authorize and direct the sales of real estate of intestates, where the appraised value of said real estate shall not exceed the sum of twenty-five hundred dollars, and to confirm and ratify said sales in the same manner as such sales are confirmed and ratified by the several circuit courts of the State, as courts of equity.

This section only applies to real estate of *intestates*, the intention being to give orphans' court jurisdiction over real estate of intestates to amount of \$2500, but not to confer general equity powers beyond what was necessary for sales specifically authorized. The real estate must be appraised—see sec. 306. *McLaughlin v. McGee*, 131 Md. 160.

Under this section and secs. 305 and 306, an orphans' court has jurisdiction to direct sales of real estate of intestates when appraised value does not exceed \$2500, although such real estate is situated in another county. See notes to art. 16, sec. 95. *Cain v. Miller*, 117 Md. 47.

Jurisdiction of orphans' court is limited and circumscribed. In case of intestacy real estate descends to the heirs, and is not subject to any order of orphans' court. *Brown v. Johns*, 62 Md. 336. And see *Snively v. Beavans*, 1 Md. 208; *Hayden v. Burch*, 9 Gill, 82; *Stewart v. Pattison*, 8 Gill, 47.

A sale under this section cannot be impeached collaterally for mere errors or irregularities, such as sale being made by administrator instead of by trustee. (See sec. 305.) *Simpson v. Bailey*, 80 Md. 422.

The court will not proceed under this section without making those who are interested parties. A proceeding held not to be under this section. *Snook v. Munday*, 90 Md. 703.

Cited but not construed in *Nally v. Long*, 56 Md. 569; *Hill v. Hill*, 38 Md. 183.

As to the appraisal of real estate, see art. 81, sec. 115.

See notes to art. 16, sec. 95.

An. Code, 1924, sec. 303. 1912, sec. 294. 1904, sec. 291. 1888, sec. 286. 1865, ch. 162, sec. 4. 1868, ch. 366.

305. The orphans' courts shall have authority to appoint a trustee to make such sales, which trustee may be the administrator or any other person, in the discretion of the court, and who shall give bond with security to be approved by the orphans' court or the register of wills, and proceed with such sale in the manner usually practised in the courts of equity in this State; and upon the ratification of such sale by the orphans' court, and the payment in full of the purchase money, and not before, the said trustee shall proceed to convey the title of said intestate to said real estate in the same manner as trustees under the appointment of circuit courts are now authorized to do; and the said orphans' court may allow the same commissions to any trustee so appointed as are now allowed to a trustee appointed to sell under a decree in equity.

See art. 16, sec. 102, and notes to sec. 304 (this article).