

after the time of recording such mortgage, nor unless such party shall, on oath, allege that the mortgage debt, and all interest due thereon, has been fully paid, or that some part of such debt or interest, the amount of which he shall state, has been paid, and that the mortgagee, or person acting under him, refuses to give credit for such amount, or that some fraud, which shall be particularly stated in the bill or petition for injunction, was used by such mortgagee, or with his knowledge, in obtaining the mortgage.

Fraud

Id s 16  
1826, c 192, s 8  
Hearing of motion to dissolve injunction.

**58.** If any such injunction shall be granted, the court, or judge, granting the same, shall have power, on proof of ten days' notice to the complainant, to hear and decide on a motion to dissolve such injunction; and, on hearing any such motion, if the court, or judge, shall be satisfied that the same was obtained through misrepresentation and for delay, the court, or judge, shall decree that the party who obtained the same shall pay interest to the mortgagee, or to the party claiming under him, at the rate of ten per cent. per annum on the amount of the mortgage debt, from the time of granting the injunction until the same shall be dissolved, and shall enforce the execution of such decree as in other cases.

Penalty

Id s 17.  
1826 c 192, s 8  
Bond to be taken before injunction granted

**59.** Before granting any such injunction, the court, or judge, granting the same shall require the complainant, or some person on his behalf, with at least two good securities, to be approved by said judge or clerk, to execute to the mortgagee, or person claiming or acting under him, and file in court, a bond in such penalty as the court, or judge, shall prescribe, conditioned to obey, abide by, perform, and fulfil such decree and order as shall be made in the premises, upon which bond the mortgagee, or his assigns, shall be entitled to recover all such debt, damages, interest, and costs, as shall be decreed on dissolving the injunction

Id s 18  
1826, c 192, s 6  
Writ of possession by purchaser

**60.** The purchaser of any estate or interest in lands and tenements sold under this article relating to mortgages, on the confirmation of the sale to him, shall be entitled to sue forth, out of the court confirming the same, a writ of possession against the mortgagor, his heirs, executors, or assigns, if the same shall be in his or their possession, directed to the sheriff of the county or city, commanding him to put such purchaser into possession of such mortgaged property, which shall be executed in the same manner as other writs of possession

Id s 19  
1826, c 192, s 7  
Rights of purchasers and tenants of mortgagor  
Leases subsequent to mortgage invalid as against purchaser

**61.** All purchasers under such sale shall have the same rights and remedies against the tenants of the mortgagor as the mortgagor had, and the said tenants shall have the same rights and remedies against the purchaser as they would have had against the mortgagor. But no lease made after the mortgage was made shall be valid as against the purchaser.

Id s 20  
1839, c 26, s 1  
Interest of mortgagee vested in his personal representatives  
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**62.** On the death of a mortgagee of lands, his interest and estate in the mortgaged premises, together with his right to the debt thereby secured, shall devolve on and vest in his executor or administrator.