

and the other obligors the sureties; yet they all appear as principals in the condition of the bond.

Suits were not brought on the bond until April, 1795; but such forbearance is not unusual, and does not affect the right of the obligee. And the sureties, if they thought proper to pay off the bond, might have had it assigned to them, and have brought suit against the principal. The judgments, against Pigman and against Charles Penn, were obtained at October Term, 1796, with a stay of execution till the 1st of January, 1797. The judgment against Pigman was removed in February, 1797, as appears by the record, although the writ of error bond is left blank as to the dates; and admitting, that this bond was executed by Deakins and Stoddart to oblige Pigman, there is nothing suspicious in the transaction; and it appears also, that a similar bond was executed, about the same time, by Charles Penn, with the same sureties. Edward Gwinn died before November, 1798, at which time his administratrix had appeared, and the judgment was affirmed. There is nothing to shew, that she was disposed to favor Pigman; and it is presumed, that she would have recovered the money from him or Charles Penn, by execution, if in her power. But suits were brought against the executor of Deakins and against Stoddart on the appeal bonds, and judgments obtained thereon at May and October Term, 1801, against them as sureties for Penn, as well as for Pigman. The money was paid by them on the 1st of May, 1802, and the judgment against Pigman only was assigned to them. This was the commencement of their claim against Charles Penn, or his heir or representatives, and they filed the present bill in July, 1802. It appears by the testimony of Benjamin Ray, that executions were issued against Pigman, and Penn, which were both served, so that there was no neglect on the part of Gwinn to pursue his legal remedy, supposing, that he was obliged so to do, which was not the case. If Pigman had been possessed of visible property, a resort to it would have been preferable to a suit on the writ of error bond. And as to Penn it is to be observed, that the conveyance of his lands in 1792, prevented their being taken on the judgment, and affirmance in 1796 and 1798, by which

**32** \* the debt might have been satisfied, and the complainants relieved from their engagements.

It is also contended, that there was an intention to defraud at the time the conveyances was made. This point is not very clear on considering the time; which was in the year when the bond to Gwinn became due; and on adverting to the evidence of Benjamin Ray and George Ray. But the Chancellor considers them as voluntary conveyances, which, though founded on a good and meritorious consideration as to his children, and grandchildren, were not *bona fide* as against creditors; but were a badge of fraud in legal contemplation, and so strong a one as not to require any