

BENJAMIN S. CLARK ET AL. }
 vs. }
 CHARLES G. RIDGELY ET AL. } SEPTEMBER TERM, 1847.

[RECEIVER.]

A RECEIVER, in strictness, should not be appointed *before the coming in of the answers*; and, although *this rule has been broken through*, yet the grounds which will induce the court to disregard it, must be very strong and special. A receiver will not be appointed unless it appears that such a measure is required to preserve the property from danger of loss.

When an application by bill or petition is made to the court to appoint a receiver, a sufficient foundation must be laid by stating the fact, which will authorize the interference of the court, in this form.

When a bill sets forth the complainants' title, and stated that a party had wrongfully taken possession of the property, but did not state that such party was insolvent or unable to account for the same, or that the rents and profits were in danger of being lost, the court refused to appoint a receiver.

[The bill in this case stated that Sater P. Walker, by deed of the 29th of October, 1830, conveyed a certain lot of ground in the city of Baltimore to John W. Osgood, (believed to be a non-resident,) in trust for Catharine Ann Walker, wife of the grantor, for her life, with remainder to the children of the grantor, in the deed named, equally, to receive the rents and profits to their separate use; and after their deaths, to the children of each respectively, in fee simple, and for the want of such children, to the right heirs of the grantor. The bill further stated, that the wife of the said Sater P. Walker died in the year eighteen hundred and forty-six, whereby the said children became entitled, under the deed, to receive the rents and profits of said property; that they were all married; that the grantor, notwithstanding the conveyance aforesaid, has taken possession of the property since the death of his wife, and appropriates the profits to his own use; and that it would be to the advantage of all parties to have the same sold, and the proceeds invested for their benefit. The bill then prayed for the appointment of a receiver to take charge of said property for the benefit of the parties entitled; and for a sale.