

[The facts of this case are fully stated in the following opinion of the Chancellor.]

THE CHANCELLOR :

On the 13th of November, 1844, the complainant filed his bill for the sale of certain premises which had been mortgaged to him by Sevier and wife, by deed bearing date on the 17th of May, 1843, to secure the payment of the sum of \$4000, due Hodges, for moneys advanced by him to Sevier, to pay a debt to one Mackubin, contracted for the purchase money for a tract of land called "Griffith's Land Resurveyed," purchased by Sevier from Mackubin. The mortgaged premises consisted of this tract and also of two houses and lots in the city of Annapolis.

It appears by an amended bill filed on the 16th of September, 1846, that Sevier, after the date of the mortgage, conveyed his equity of redemption to one Gabriel H. Duvall as his insolvent trustee, the amendment being made for the purpose of charging this fact and making the trustee a party.

Sevier and his wife, and Duvall, admitted the facts charged and consented to a decree which passed accordingly, on the 18th of January last, appointing a trustee in common form to make the sale. The trustee reported his sale on the 19th of February following, amounting to \$4697, upon which the usual order of ratification, *nisi*, has been passed, the case not having yet been submitted for the final ratification of the sale.

In this state of the proceedings, Joseph J. Speed and Josias Pennington, by their petition, filed on the 29th of April, stated and showed themselves by the production of a short copy, to be judgment creditors of said Sevier, upon a judgment rendered in the Anne Arundel County Court, at October term, 1840, for \$300 and costs, upon which an execution had issued to April term, 1841, and according to the return of the sheriff, partially satisfied, and "*nulla bona*" returned as to the residue. It further appeared, that the plaintiffs in said judgment, had caused a *scire facias* to be issued upon it to October term, 1845, to which, at that term, the defendant, Sevier, appeared, and that