

**Sales Under Execution.**

An. Code, 1924, sec. 1. 1912, sec. 1. 1904, sec. 1. 1888, sec. 1. 1810, ch. 160, sec. 1.

1. Any sheriff or other officer to whom any execution may be directed may seize and expose to sale any legal or equitable estate or interest which the defendant named in such writ may have or hold in any lands, tenements or hereditaments.

**Executions.**

Property held as tenants by the entirety cannot be seized and sold on a judgment against husband. Judgments create liens on land only because it is liable to be seized and sold upon execution. *Jordan v. Reynolds*, 105 Md. 294; *Coombs v. Jordan*, 3 Bl. 284.

Where real estate is devised to a trustee to collect income and pay it "into A's hands and not into another, whether claiming by his authority or otherwise," such income cannot be reached in hands of trustee by creditors of *cestui que trust*. *Smith v. Towers*, 69 Md. 77. (See, however, dissenting opinion, page 98.)

Where an officer sells under an execution, he must first effect an actual seizure. The land seized must be so described that it may be ascertained and located, otherwise seizure and sale are void. *Dorsey v. Dorsey*, 28 Md. 393.

A valid *fi. fa.* upon an absolute judgment against an administrator or executor can be levied under this section upon his lands, as well as upon his goods and chattels. *Beall v. Osbourn*, 30 Md. 11.

The equitable interest of a judgment debtor in a term for years is liable to seizure and sale by analogy to this section. An equitable estate in personal chattels is not so liable at law. *Shryock v. Morris*, 75 Md. 79. And see *Hollida v. Shoop*, 4 Md. 475.

Prior to this section equitable interests were liable in equity to be sold for debt. *Miller v. Allison*, 8 G. & J. 38.

Prior to this section the interest of a mortgagor in lands was liable to be attached, condemned and sold under a *fi. fa.* *Ford v. Philpot*, 5 H. & J. 312.

**Generally.**

This section cannot be nullified by an injunction at the instance of a senior lien holder. *Union Bank v. Poultney*, 8 G. & J. 333.

This section held to be applicable to a sale made before its passage, but ratified thereafter. *Coombs v. Jordan*, 3 Bl. 322.

Cited but not construed in *Wright v. Ryland*, 92 Md. 661 (dissenting opinion); *Tuck v. Calvert*, 33 Md. 222; *Hall v. Jones*, 21 Md. 446; *Watkins v. Dorsett*, 1 Bl. 533; *Morsell v. First National Bank*, 91 U. S. 361; *Smith v. McCann*, 24 How. 398; *VanNess v. Hyatt*, 13 Pet. 294.

Cited but not construed in *Caltrider v. Caples*, 160 Md. 394.

See notes to sec. 2.

As to the preference of taxes in the proceeds of sales by ministerial officers, see art. 81, sec. 150.

See art. 26, sec. 21; art. 52, sec. 61, *et seq.*, and art. 87, sec. 12, *et seq.*

An. Code, 1924, sec. 2. 1912, sec. 2. 1904, sec. 2. 1888, sec. 2. 1794, ch. 60, sec. 10. 1810, ch. 160, sec. 2.

2. Any person who shall purchase any equitable estate or interest in any lands, tenements or hereditaments which may be sold under the preceding section shall be entitled, upon payment of the purchase money, to an assignment or conveyance of such equitable interest, to be made by the sheriff or other officer making such sale, and shall in consequence of such purchase and assignment or conveyance stand as to title and be entitled to such remedy against all persons and in all cases as the person whose title he may purchase.

If title be one which includes possession, writ of *habere facias possessionem* is applicable. The purchaser takes subject to any right of possession or title which antedates judgment upon which execution is issued. *Deakins v. Rex*, 60 Md. 595. See also *Cooke v. Brice*, 20 Md. 400; *Richardson v. Stillinger*, 12 G. & J. 477; *McMechen v. Marman*, 8 G. & J. 57.

This section applied. *Shryock v. Morris*, 75 Md. 80.

See notes to sec. 1.