

Object of this section. It applies to all cases where an executor is authorized to sell real estate. The executor represents all parties in interest. *Dent v. Maddox*, 4 Md. 530. And see *Maddox v. Dent*, 4 Md. Ch. 549.

Prior to act of 1831, ch. 315, the executor's bond was not liable for proceeds of real estate sold for payment of debts; equity alone could administer equitable assets. *Cornish v. Wilson*, 6 Gill, 334; *Waring v. Waring*, 2 Bl. 677.

This section referred to in construing the act of 1831, ch. 315—see notes to sec. 365. *Warford v. Colvin*, 14 Md. 556.

This section referred to in construing sec. 302—see notes thereto. *Wright v. Williams*, 93 Md. 69.

This section referred to in construing art. 21, sec. 99—see notes thereto. *Smith v. Montgomery*, 75 Md. 140.

Cited but not construed in *Davis v. Clabaugh*, 30 Md. 510.

For curative statute involving sales under wills of non-residents, see art. 21, sec. 99.

As to the writ of *habere facias possessionem* in cases of sales made under a power contained in a will, see art. 75, sec. 99.

See art. 16, secs. 101 and 276, and notes to sec. 302 (this article).

An. Code, 1924, sec. 300. 1912, sec. 291. 1904, sec. 288. 1888, sec. 283. 1865, ch. 162, sec. 1.

302. In all cases in which a testator, by will, has directed his real estate to be sold for the payment of debts, or for any other purpose, and the executor or executors therein named shall refuse or decline to act, or shall die without executing the powers vested in him or them, it shall and may be lawful for the several orphans' courts of this State, upon petition of any party interested, to appoint an administrator *de bonis non*; with the will annexed, or to empower the administrator with the will annexed, previously appointed, to execute the trusts of said will in the same manner and to the same extent as the executor or executors appointed by will could or might do.

This section applies where a man who is named executor in a will dies after testator, but before the will has been probated. Hence a power of sale given to such executor vests in administrator *d. b. n.* appointed by orphans' court after former's death. Sale upheld. Purpose and scope of this section. Effect of probate of a will. Title of executor and administrator contrasted. *Murray v. Conley, et al.*, 124 Md. 220.

Where a will directs executor to sell real estate upon death of life tenant but the executor is removed during life of life tenant, upon latter's death orphans' court has jurisdiction under this section, but jurisdiction of equity under art. 16, sec. 102, is not interfered with, and jurisdiction first invoked prevails. *Wright v. Williams*, 93 Md. 69.

This section confers upon administrator *c. t. a.* all power and authority to sell which original executor derived from will. *Bay v. Posner*, 78 Md. 48; *Venable v. Mercantile Trust, etc., Co.*, 74 Md. 189.

This section has no application if executor dies in lifetime of testator and hence power of sale never vests. *Wilcoxon v. Reese*, 63 Md. 545.

This section applied. *Snook v. Munday*, 90 Md. 703; *Keplinger v. Maccubbin*, 58 Md. 211.

This section referred to in construing sec. 301—see notes thereto. *Warehime v. Graf*, 83 Md. 101.

See notes to sec. 301.

An. Code, 1924, sec. 301. 1912, sec. 292. 1904, sec. 289. 1888, sec. 284. 1865, ch. 162, sec. 2. 1870, ch. 82.

303. In all cases of sales of real and leasehold estate heretofore made or hereafter to be made by any executor, administrator, administrator *de bonis non*, administrator with the will annexed, or administrator *de bonis non* with the will annexed, and the purchaser or purchasers shall fail, neglect or refuse to comply with terms of sale as reported to and ratified by the court, it shall and may be lawful for the orphans' court of the several counties of the State and the city of Baltimore, upon the application of such executor, administrator, administrator *de bonis non*, administrator with the will annexed, or administrator *de bonis non* with the will annexed, to pass an order requiring such purchaser or purchasers to comply with said terms of sale, or show good cause to the contrary, on