

Generally.

Necessary allegations to bill for sale under this section. Failure of both allegations and proof to conform to this and the following section. *Fox v. Reynolds*, 50 Md. 571; *Roche v. Waters*, 72 Md. 270. *Cf. Boliano v. Cooke*, 19 Md. 393.

The sale of an infant's land under this section, does not work a conversion from realty to personalty. This section construed in connection with secs. 64, 72, 73 and 75, and also with art. 93, sec. 203—see notes thereto. *Clay v. Brittingham*, 34 Md. 676; *Bernard v. Equitable Trust Co.*, 80 Md. 124.

A decree for a sale of an infant's lands may be impeached by the infants themselves, or in case of their death by their heirs, for fraud or the non-observance of jurisdictional requirements, or on any other ground which shows that the decree was improper, such as want of proper parties. A decree cannot be impeached, however, for a mere irregularity, nor because the infants, after arriving at age, were not given an opportunity to object. Fraud not established. The husband of a guardian, may become a purchaser. *Gregory v. Lenning*, 54 Md. 53; *Bolgiano v. Cooke*, 19 Md. 396.

Act of 1819, ch. 144, extended provisions of act of 1816, ch. 154, to personal estate. *Carlyle v. Carlyle*, 10 Md. 446. *Cf. O'Hara v. Shepherd*, 3 Md. 315.

For cases affirming the general jurisdiction of equity over infants, see *Taylor v. Peabody Heights Co.*, 65 Md. 391; *Davis v. Helbig*, 27 Md. 462; *Corrie's Case*, 2 Bl. 488; *Dorsey v. Gilbert*, 11 G. & J. 90.

For a case involving the act of 1816, ch. 154, and the act of 1818, ch. 193, see *Williams' Case*, 3 Bl. 203.

This section referred to in construing sec. 69—see notes thereto. *Hitch v. Davis*, 3 Md. Ch. 265.

This section referred to in construing sec. 252—see notes thereto. *Beggs v. Erb*, 138 Md. 353.

Cited but not construed in *Stein v. Stein*, 80 Md. 309; *Hammond v. Hammond*, 2 Bl. 346.

Cross References.

As to the jurisdiction of equity to decree relative to mortgaged property owned by an infant, see sec. 107.

As to the jurisdiction of equity to decree relative to property owned by an infant and which is subject to a contract, see sec. 108.

Re. specific performance against non-resident infants, see sec. 140.

As to the sale of an infant's real estate, to save personalty, see sec. 109.

Re. procedure upon a bill of review in the interest of infants, see sec. 200.

As to how infant defendants should answer and sue, see secs. 168 and 169.

No decree *pro confesso* may pass against infant defendants—see sec. 225.

As to guardian and ward, see art. 93, sec. 152, *et seq.*

Re. procedure where infants are entitled to an election, see art. 46, sec. 22.

As to the powers and duties of institutions for the care and protection of minors, see art. 23, sec. 193.

See notes to sec. 64.

As to sales by executors and administrators, see art. 93, sec. 292, *et seq.* As to application of purchase money, contingent remainders, apportionments of rents, etc., see art. 93, sec. 307, *et seq.*

An. Code, 1924, sec. 60. 1912, sec. 58. 1904, sec. 54. 1888, sec. 49. 1816, ch. 154, sec. 1. 1818, ch. 133, sec. 2. 1818, ch. 193, sec. 13. 1840, ch. 109, sec. 3.

64. No decree for sale shall pass under the preceding section, but upon the petition of the guardian or *prochein ami* of such infant, and the appearance and answer of such infant, by guardian to be appointed by the court, and proof by the depositions of at least two discreet and respectable witnesses, to be taken before an examiner for that purpose; and the witnesses shall state in their depositions the value and quantity of the property, and the facts and circumstances which show that it would be for the benefit and advantage of such infant, that a decree for a sale should be passed.

Fact that bill is filed by next friend of only one of infants, is immaterial if all of the infants are summoned and answer by guardian *ad litem*; nor is it material that bill prays for a sale and distribution and not for an investment, where the bill alleges that both a sale and investment would be for the benefit, etc. *Mumma v. Brinton*, 77 Md. 200. And see *Bolgiano v. Cooke*, 19 Md. 392.

A decree will not be reversed or vacated because the witnesses failed to state the facts which show that a sale would be for the benefit of the infant. *Gregory v. Lenning*, 54 Md. 57. And see *Bolgiano v. Cooke*, 19 Md. 392.

A suit under this and the preceding section, does not abate by the death of one or more of the infants. *Tilly v. Tilly*, 2 Bl. 440.