

An. Code, 1924, sec. 129A. 1935, ch. 367.

136. In all cases where a person is declared a lunatic or *non compos mentis*, and said person owns, or shall thereafter acquire, any right, title, or interest of any kind in any real, leasehold, sub-leasehold, or sub-sub-leasehold property by deed or by last will and testament and there is vested in, or reserved to, such person during the term of his or her natural life the authority, right and/or power to sell, convey, lease, mortgage, or otherwise dispose of, or in any other manner to encumber such property or estate, or any portion thereof, in those cases, the Court shall have the right to authorize and direct the guardian, committee or trustee of the person, property and/or estate of such lunatic or person *non compos mentis*, to exercise and execute such right, power and authority as may be vested in such person by such deed or last will and testament to the same extent and as fully as such person might have done had he not been declared a lunatic or *non compos mentis*; provided it shall appear to the Court that the exercise of such power or authority, as aforesaid, is for the benefit of said lunatic or person in *non compos mentis*.

Non-Residents.

An. Code, 1924, sec. 130. 1912, sec. 124. 1904, sec. 117. 1888, sec. 105. 1773, ch. 7, sec. 3
1785, ch. 72, sec. 30. 1787, ch. 30, sec. 1. 1789, ch. 46. 1795, ch. 88, sec. 1.
1799, ch. 79, sec. 1. 1818, ch. 193, sec. 11. 1842, ch. 206, sec. 2.

137. If in any suit in chancery, by bill or petition, respecting, in any manner the sale, partition, conveyance or transfer of any real or personal property lying or being in this State, or to foreclose any mortgage thereon, or to enforce any contract or lien relating to the same, or concerning any use, trust or other interest therein, any or all of the defendants are non-residents, the court in which such suit is pending may order notice to be given to such non-residents, of the substance and object of such bill or petition, and warning them to appear by a day therein stated.

Generally.

A decree that a party is entitled to a conveyance from a non-resident, may be made effective by appointment of a trustee under sec. 103, and to that end the proceedings are *in rem*. *Hollander v. Central Metal Co.*, 109 Md. 149.

Where the clerk of the court has trust money in his hands, the court has jurisdiction over such money and may proceed against the trustee as a non-resident. Such a proceeding is *in rem*. *Chappell v. Clarke*, 94 Md. 182.

Non-residents cannot be considered parties for any other purpose than that necessarily arising out of the object of the bill as stated in the order of publication. Object of such order. *McGaw v. Gorter*, 96 Md. 494.

Jurisdiction over non-resident infants assumed under this section, and sec. 89 of the Code of 1860, held to bind the infants as effectually as if they had been summoned and defended by a guardian. The publication has the effect of a notice although the infants are too young to know anything, but the infants are not charged with knowledge of the entire proceedings. Effect of a decree *pro confesso*. *Jenkins v. Whyte*, 62 Md. 431. And see *Comegys v. State*, 10 G. & J. 182.

The definition of a non-resident within the meaning of this section is the same as that of a non-resident in the attachment law—see notes to art. 9, sec. 2. *Dorsey v. Dorsey*, 30 Md. 531. And see *Hollander v. Central Metal Co.*, 109 Md. 161; *McKim v. Odom*, 3 Bl. 428; *Snowden v. Snowden*, 1 Bl. 557.

If the defendant is in fact a resident, the order of publication is a nullity. *Snowden v. Snowden*, 1 Bl. 558.

This section referred to in construing sec. 149—see notes thereto. *Johnson v. Robertson*, 31 Md. 488.

Cited but not construed in *Neale v. Hagthorp*, 3 Bl. 573; *Buckingham v. Peddicord*, 2 Bl. 454.

Cross references.

As to where a bill against non-residents should be filed, see sec. 98.

Re. mortgage and lease of property owned in part by non-residents, see sec. 65, *et seq.*