

ages may be made, or shall give bond, with approved security, in a penalty to be fixed by the court, to perform the contract or pay all such costs and damages as may, in any court of competent jurisdiction, be adjudged against him for breach or non-performance of such contract.

Where a part interest in a patent is sold upon the agreement of the purchaser to execute notes for the price, the fact that the seller has an action at law does not deprive him of relief by specific performance. Principles controlling specific performance. *Teschner v. Falkenwalde*, 135 Md. 117.

Policy, design and probable effect of this section. This section applied. *Neal v. Parker*, 98 Md. 269.

Where specific performance is not refused on the "mere" ground that the plaintiff has an adequate remedy at law, this section has no application. *Brehm v. Sperry*, 92 Md. 408.

This section applies to contract by corporation for sale of its stock, formula, etc., even if there is remedy at law; not necessary to give defendant opportunity to show he had property or give bond for damages, leave having been granted him to file answer after date of order. This section valid. *Neal v. Parker*, 98 Md. 254, affirmed. *Balto. Process Co. v. My-Coca Co.*, 144 Md. 444.

Remedy at law no ground for denying specific performance in absence of bond or property sufficient to pay damages. When specific performance will be decreed. Testimony contradictory and irreconcilable and witnesses same in number; relief refused without prejudice. *Pattison v. Brydon*, 150 Md. 582.

When plaintiff testifies that defendant's credit was good, jurisdiction of equity is ousted if there is adequate remedy at law. *Hearn v. Ruark*, 148 Md. 361.

Failure of pleadings to show that complainant has no remedy at law is not fatal. *Brummel v. Realty Co.*, 146 Md. 65.

This section has no application, as defendant had adequate property to pay damages and costs. *Rolling Mill Co. v. Michlovitz*, 157 Md. 65.

Cited but not construed in *Kingan Packing Assn. v. Lloyd*, 110 Md. 624.

As to the enforcement of decrees for specific performance, see sec. 99.

As to decrees of specific performance against non-resident infants and *non compos*, see sec. 140.

As to specific performance *re* transfer of corporate stock, see art. 23, secs. 61 and 63.

Trustee.

An. Code, 1924, sec. 247. 1912, sec. 232. 1904, sec. 216. 1888, sec. 200. 1785, ch. 72, sec. 7. 1816, ch. 154, sec. 3.

256. In all cases where a decree for a sale passes, the court may appoint a trustee to make such sale.

A trustee is the mere attorney of the court acting under specially delegated authority. *Andrews v. Scotton*, 2 Bl. 637. And see *Gibson's Case*, 1 Bl. 139.

A trustee may be appointed to execute an assignment of a patent, if the patentee fails to execute such assignment, as directed by a decree. *Ager v. Murray*, 105 U. S. 126.

Cited but not construed in *Kingan Packing Assn. v. Lloyd*, 110 Md. 624.

As to the appointment of a trustee to sell property or execute a deed; and the general jurisdiction of equity under trusts, see sec. 102, *et seq.*

Re. appointment of trustee to make a sale directed by will, see sec. 102.

As to when trustees represent those beneficially interested, see sec. 203.

As to the appointment of a trustee to complete the collections of a sheriff or tax collector, see sec. 110.

As to who is a trustee, see sec. 31.

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.*

As to fiduciaries, see art. 37A.

See also notes to sec. 103.

For a form of a trustee's deed under a decree, see art. 21, sec. 77.

An. Code, 1924, sec. 248. 1912, sec. 233. 1904, sec. 217. 1888, sec. 201. 1785, ch. 72, sec. 8. 1790, ch. 60. 1816, ch. 154, sec. 3. 1842, ch. 70. 1845, ch. 166, sec. 1. 1910, ch. 212 (p. 61).

257. Every trustee appointed by decree to make a sale before he sells, shall give bond to the State of Maryland, with surety or sureties, to be approved by the judge of the court or the clerk thereof in such penalty as the said judge may prescribe; provided, that whenever the surety on said bond is a corporation authorized by the laws of this State to qualify as