

principle which will authorize me in taking from the defendant, Brannan, the benefit of his security.

It is not denied that if the transaction was *bona fide*, that the conveyance of December, 1847, though defective by reason of the mistake in regard to the affidavit required by the Act of 1846, may be set up as a valid contract in equity, and that the confirmatory deed of April, 1848, would give it full validity. The case of *Alexander vs. Ghiselin*, 5 *Gill*, 138, establishes this proposition, and as, for the reasons stated, I am of opinion that the complainant has not succeeded in showing fraud, or that the conveyances are void under the insolvent laws, it follows that the complainant must be denied the relief prayed by his bill. But although the complainant is not entitled to a decree vacating the conveyances in question, yet inasmuch as these conveyances constitute mortgages, the case last referred to shows that the property embraced in them must be taken possession of and administered by the complainant, as the permanent trustee of the mortgagor. It is understood that the complainant, as receiver, under the appointment and authority of the Baltimore County Court, has sold the property, but I do not find among the proceedings a report of the sale, and therefore it is impossible to say whether the proceeds will or will not be sufficient, or more than sufficient, to pay the mortgagee's claim. My opinion, then, is, that the bills of sale shall stand and have effect as mortgages, and that the proceeds of the will made by the receiver shall be applied to the payment of the mortgage debt. The receiver should make a report of his sale, and then the cause should go to the Auditor for an account. The question of costs will be reserved.

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J. H. ING, and T. P. SCOTT, for Complainant.

C. H. PITTS, and C. S. S. LEARY, for Respondents.