White and Elder
vs.
Robert Howard

In Circuit Court for Baltimore County.

This case came on for hearing on an exception to the confirmation of certain sales made and reported by J. Parkin Scott Esquire Trustee and Attorney for Messrs White and Elder, and was argued with great ability on both sides. Many causes of Exception have been assigned. I have not thought it necessary to express an opinion in regard to all of them. It appears to me the sales ought not to be confirmed because the terms on which said sales were made are not stated in the report. This it seems to me is a fatal objection. The Report should state distinctly and fully what the contract of sale was. The terms should not be left to implication or conjecture, or to be otherwise proven. It was ordered by the Attorney and Trustee of White and Elder that the Trustee under the insolvent Laws has no right to object to the confirmation of these sales because Robert Howard has previous to his application assigned and conveyed all his interest in the property to the Great Falls Iron Company. It appears to me that in as much as this appeal is proceeding under the act of 1826 ch 192 it is the duty of the Court to notice any defect apparent on the face of the proceedings and to listen to a suggestion of such a defect coming from any one at least from any one claiming to have an interest in the matter in question. This is the rule under the attachment Laws. Lamden vs Bond 2 Md 334. And it seems to me that the same rule should be applied to this proceeding. In these premises an order will be signed when presented sustaining the Exception and setting aside the sales mentioned.

May 25th 1859. John H. Price

Whereupon the Court passed in said cause in Court the following order to wit.

Ambrose White and J. W. Elder
vs.
Robert Harvey and P. A. his Wife

Circuit Court for Baltimore County
26 May 1859.

The Exceptions against the sales made and reported by J. Parkin Scott Trustee and Attorney for the Mortgagees filed by James Malcolm and William H. Brown Trustees for the Creditors of Robert Howard and those filed by the Great Falls Iron Company and the Notice filed by the said White and Elder to the Ratification of the aforesaid Exceptions of the Great Falls Iron Company from the files of the Court standing ready for hearing and being argued by Counsel for the parties and fully and the proceedings being considered by the Court. It is therefore adjudged and ordered for the reasons stated in the Opinion of the Court filed with this order that the aforesaid sales so made and reported as aforesaid be and the same are hereby set aside and annulled.

John H. Price

And afterwards to wit on the 1st day of June in the year last aforesaid the said Complainants by their Solicitor aforesaid the said Trustee and the Purchaser Charles Webb also comes into Court by Thos Parkin Scott Esquire his Solicitor and files in Court here the following prayer of appeal to wit.

In the cases of
White and Elder
vs.
Robert Howard

In the Superior Court for Baltimore City.
In Equity.

Mr Carman Enter an appeal by White and Elder from the order of the Court passed 26 May 1859 also enter an appeal by Charles Webb from the same order also enter an appeal by J. Parkin Scott Trustee and Attorney from the same order and transmit the record to the Court of Appeals of Maryland. 1 June 1859.

Whereupon the Court have passed the following order to wit.

In Circuit Court for Baltimore County.

On Motion of the Appellants it is ordered that the penalty of the appeal Bond to be given by them in this cause be fixed at two thousand dollars the Bond with security to be filed and approved as usual.

John H. Price

And the said Exceptants by their Solicitor Thomas Alexander Esquire