

lien extends no further than as a security for three out of five shares of the purchase money for which the land sold.

It appears, that Ethelbert Iglehart, another of the five heirs, brought suit upon this bond; and, on obtaining judgment, sued out a *feri facias* which has levied on this land, and the whole of it sold by the sheriff to this defendant. This sale must have passed all the interest of Reuben Ridgely, whose property was ordered by the *feri facias*, to be taken and sold to satisfy the debt due by him to Ethelbert Iglehart, for whose use the suit upon the bond was instituted; and that equitable interest of Reuben Ridgely, as has been shewn, amounted to two-fifths of the whole. But as Ethelbert Iglehart caused his execution to be levied upon the very same land which was bound by the bond lien as a security for the payment of his one-fifth of the purchase money, and caused the whole to be sold, he has so obtained satisfaction to the full extent of that lien, and thereby virtually extinguished it in favor of this defendant, the purchaser at the sheriff's sale. *Jacobs v. Latour*, 15 *Com. Law Rep.* 388.

* In the case of a recognizance, if the conusee purchases, or accepts a grant of the land bound by his recognizance, **550** he thereby discharges his lien; *Bac. Abr. tit. Execution*, B. 5; so here, this heir, by taking in execution and having sold the land bound to him thereby discharged his lien; since it would be against all law and equity to suffer him to retain his lien, so as in any manner thereby to obtain a satisfaction for what, as in this instance, might remain unpaid, from the very same fund; and that too, to the prejudice of third persons. But, as in the case of a statute merchant which, because of its being sealed by the conusor himself, may be treated as a mere personal obligation by the conusee, who may waive all benefit of the lien connected with it; *Bac. Abr. tit. Execution*, B. 2; so here, although this bond lien, to the extent of the interest of Ethelbert Iglehart, has been exhausted and extinguished by the levy and sale under his execution; yet that cannot prevent him from pursuing his remedies upon the personal obligation against the obligors until he has obtained full satisfaction.

I am therefore of opinion, that this defendant has obtained, by his purchase from the sheriff, an interest to the extent of three-fifths of the whole of the estate, unencumbered by any lien whatever in favor of the three heirs whose interests were covered by the execution in the manner described.

But as regards the interests of this plaintiff, it is evident, that no act which has been or could be done by his co-heir Ethelbert Iglehart, by the institution of a suit upon the bond, or by causing the land to be sold under execution or otherwise, can be permitted, in any respect, to prejudice the rights, or to impair the obligation and lien belonging to this plaintiff. His remedies or forms of pro-