

fective, the defendant, Nelson, might have appeared in the County Court, at the terms to which they were returnable, and moved to quash them; and if his motion had been successful, the money would have been returned to the purchaser, it being then under the control of the court. Indeed, the County Court alone could take cognizance of this question; a court of chancery having no jurisdiction or power over it. *Waters vs. Duvall*, 6 G. & J., 76.

If, to be sure, the defendant in this judgment omitted to appear at the return of the writ, and move to quash it, he might still keep possession of the property, and in an action of ejectment against him by the purchaser, or upon proceedings under the act of 1825, ch. 103, he might defend himself at law, and defend himself effectually, if the description of the land in the returns by the sheriff, was so far defective as to render it void for uncertainty.

But in this case, the defendant, Tubman Nelson, did not adopt either of these modes of resistance. He neither appeared in the County Court, upon the return of the writs, nor did he keep possession, and resist the purchaser's right thereto, under his purchase. Instead of doing this, he suffered the purchaser's money to be applied to the payment of his debt, and acknowledged by acts and declarations, free from all equivocation or doubt, the perfect validity of his title. It seems to me, that under these circumstances, there can be no principle of equity which will justify the active interposition of the court in his favor, or in favor of those who claim under him. It must be recollected, that it is not the purchaser who is asking the aid of the court, to give him the benefit of his purchase, of which he is and has been, since the year 1828, in the enjoyment, with the consent and approbation of the defendant in the judgment, until his death, which did not take place until six years subsequently. The heirs at law of this defendant come, fourteen years after his death, and apply to a court of equity to restore to them property, bought, and paid for, under executions against their ancestor, and when if their application is successful, the money which has been applied to the payment of the debt of