THOMAS. D. HURT AND OTHERS
vs.
JOHN STULL.

} SEPTEMBER TERM, 1851.

[EFFECT OF INSOLVENT APPLICATION UPON PROCEEDINGS FOR A SALE IN THIS COURT—SALES BY TRUSTEES.]

A BILL was filed in this case by a vendor for the sale of a certain parcel of land to pay the vendor's lien, and a decree was passed accordingly, which *upon appeal* was affirmed by the court of appeals : after the decree, but before the sale had actually taken place the defendant, the vendee, applied for the benefit of the insolvent laws, and his trustee in insolvency was duly appointed, who applied to the court to stay execution of the decree upon the ground that by theproceedings in insolvency the right to make the sale is exclusively vested in the trustee of the insolvent. HELD—That the proceedings in insolvency did not put a stop to the proceedings of this court, and its trustee was still bound to execute the decree by a sale of the property.

In the execution of decrees for the sale of property, though this court employs a trustee, that officer is its agent, the court itself being the vendor acting through the instrumentality of its agent.

[The facts of this case are stated by the Chancellor in his opinion.]

THE CHANCELLOR:

This case is submitted upon the order of the 14th of August last, passed upon the petition of Albert T. Emory, trustee in insolvency of the defendant, Stull, and the proceedings and the written arguments of the solicitors of the parties have been read and considered.

It is an application by the petitioner to stay the execution of a decree of this court, passed for the sale of a parcel of real estate to pay the vendor's lien, after the affirmance of that decree by the Court of Appeals, and after the trustee, in conformity therewith, had advertised the property for sale. The ground taken in the petition is, that by the proceedings in insolvency the right to make sale of the property is exclusively in the trustee of the insolvent, and for this position, the case of *Alexander et al* vs. *Ghiselin et al,* 5 *Gill,* 178, 179, is relied upon.