

stated that he had acted in the purchase of the estate as the agent of *Moffatts, Murray & Company*, and in whose behalf he claimed to hold the whole stock, &c., of the partnership, they having been sold for a partnership debt.

1849.
Partridge
v.
McIntosh.

Moffatts, Murray & Company were made defendants by amendment, and answered to the same purport.

The cause coming on to be heard,

Mr. *Gwynne*, with whom was Mr. *Crickmore*, for the plaintiff:

The simple point to be decided is, what was the interest vested in the assignee of the sheriff by the sale. We contend that under the execution the sheriff could only assign the estate of the partner, and dispose of his interest in the partnership effects.

Heyden v. Heyden, (a) *Fox v. Hanbury*, (b) *Skipp v. Harwood*, (c) *Taylor v. Fields*, (d) *Dutton v. Morrison*, (e) *Beven v. Lewis*, (f) *Habershon v. Blurton*, (g) *Johnson v. Evans*. (h)

Here, although the goods were, as alleged, advanced by *Moffatts & Company*, for, and used in the business of, the partnership, still as they have chosen to take the confession against *Phillips* alone, they can take such interest in the joint effects as *Phillips* had, and no greater—that is one half of the assets after payment of all the partnership liabilities; and no equity here set up gives them any larger interest than if the debt had been exclusively a personal one.

Argument.

If Mr. *McIntosh* had purchased for himself, no question could possibly have arisen as to what interest *Moffatts and Company* had in the partnership effects; and under the circumstances, they can be looked upon simply as purchasers at sheriff's sale.

The purchasers' duty was to have filed a bill in this court for an account and general settlement of the partnership affairs.—*Young v. Keighly*. (i)

Mr. *Burns* and Mr. *Crooks* for defendant:

The plaintiff seems to seek some fancied equity on his

(a) 1 Salk. 392.

(c) 2 Swans. 586; Coke. Litt. sec. 323.

(e) 17 Ves. 193.

(g) 11 Jurist, 161.

(b) Cowp. 449.

(d) 4 Ves. 396.

(f) 1 Sim. 376.

(h) 7 M. & G. 240.

(i) 15 Ves. 557.