

mortgaged property was still redeemable by plaintiff; or that the mortgagees were liable to the plaintiff for negligence in selling without taking proper precautions to secure the best price obtainable; or that the plaintiff was entitled to the benefit of the purchase as a purchase on the joint account of the plaintiff and his co-mortgagor. The sale had been made by private contract after the usual notice of the intention to exercise the power had been given to the mortgagors, at a price equal to the principal interest and costs due on the mortgage. Previous unsuccessful efforts to effect a sale had been made, and the offer of the mortgagor who had purchased had been accepted bona fide by the mortgagees. The Vice-Chancellor of Lancaster had declared the sale void, but the Court of Appeal (Lindley, Kay and Smith, L.JJ.) unanimously reversed his decision, holding that the sale was a valid and effectual exercise of the power, and that there is nothing to prevent one of two tenants in common mortgagors from purchasing for his own benefit under the power of sale, and therefore that the plaintiff was entitled to no relief either as against the mortgagees, or as against the mortgagor who had become the purchaser; and the fact that the plaintiff had not been informed of the contemplated sale to his co-mortgagor was held to be no ground for avoiding the sale; and the contention that tenants in common of an equity of redemption stand in a fiduciary position to each other so as to preclude any one tenant from buying the mortgaged estate for his own benefit was declared to be unfounded in law.

TRUSTEE—DEBT DUE TESTATOR'S ESTATE FROM PARTNERSHIP—AUDIT—STOCK TAKING—EXPENSES OF PROTECTING ESTATE—TENANT FOR LIFE—REMAINDER-MAN—CAPITAL AND INCOME.

*In re Bennett, Jones v. Bennett*, (1896) 1 Ch. 778, was a petition by a trustee of a will for the advice of the Court on two questions. By the will the residuary estate had been bequeathed in trust for one for life, and for others in remainder. The residuary estate in part consisted of a debt due to the testator of £15,000, being the amount of his capital in a firm from which he had retired under an agreement with the continuing partners that it should be a debt due from them, and bear