

The right and title of the judgment-debtor to immovable property sold by virtue of an execution is not divested by the sale until the confirmation of the sale by the Court and the execution of the Fiscal's conveyance.

The "right and title" is used as synonymous with the "legal estate," a term well known in the English law, which it seems to me must be our guide in interpreting this part of the Code. We must go back to the "statute of uses," and the judgment-debtor must be regarded as a trustee who has the fee simple in legal estate, while the purchaser in execution must be considered as having an equitable interest or estate. The title is in the trustee of a judgment-debtor, and the right to use the property for limited purposes is in him or the person in possession.

This right and title, such as it is, belongs to the trustee against all the world.

The purchaser, when thirty days have elapsed, must have the sale confirmed and procure a conveyance from the Fiscal. Having done that, the legal and the equitable estates unite, and he can force the trustee, *i.e.*, judgment-debtor or other person in possession of the immovable property, to surrender the land to him with an account of the profits.

That "right and title" or "legal estate" is a right of property which can be seized and sold in execution. It can pass by devise. It could be sold by private transfer, and the purchaser could in the course of time, if he remained in possession without acknowledging the purchaser's equitable title, and using the property as his own for ten consecutive years, perhaps regain a prescriptive title to the detriment of the purchaser. Two conditions are required by the purchaser before he can acquire absolute *dominium*—he must procure the Court's confirmation and the Fiscal's conveyance. It is admitted that the plaintiff had not done so when he instituted this action.

The difficulty that confronts us is the position of the purchaser, who, having made a claim similar to the plaintiff's, has to establish his claim within fourteen days of the order upholding the seizure under the provisions of the 247th section of the Civil Procedure Code. We have repeatedly held that, unless a claimant who has been defeated fails to come forward within fourteen days and establish his claim, the adverse order will be for ever conclusive against him.

Mr. Wendt argues here that the order which drives the present plaintiff to establish his claim will not do him a permanent injury. As soon as he procures the necessary confirmation of sale and Fiscal's conveyances he will be able to get possession of the land