

§2713. Excess determined by court or jury

If it appears that the plaintiff has complied with the order of the court and that the trustee has refused or neglected to comply therewith, the court shall enter up judgment against him for the amount due and returned unsatisfied on the execution if there appears to be in his hands such an amount of the property mortgaged over and above the sum due him; but if not, then for the amount of said property exceeding that sum, if any. The amount of this excess shall be determined by the court or jury.

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