

THE PROPERTY (TRANSFER) ACT

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THE PROPERTY (TRANSFER) ACT

Cap. 313.

[30th June, 1845.]

1. This Act may be cited as the Property (Transfer) Act. Short title.
2. In this Act—
 “land” shall extend to messuages, lands, tenements, and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof, and to any estate or interest therein, and to money subject to be invested in the purchase of land, or any interest therein;
 “conveyance” shall extend to a grant, lease, surrender, or other assurance of freehold land. Interpretation.
3. No partition, or exchange, or assignment of any freehold or leasehold land shall be valid at law, unless the same shall be made by deed, except in such cases where partition is authorized to be made under the law now in force. Assignment, etc., of land must be by deed.
4. No lease in writing of any freehold or leasehold land or surrender in writing of any freehold or leasehold land, shall be valid as a lease or surrender, unless the same shall be made by deed; but any agreement in writing to let or surrender any such land shall be valid and take effect as an agreement to execute a lease or surrender; and the person who shall be in possession of the land in pursuance of any agreement to let may, from payment of rent or other circumstances, be construed to be a tenant from year to year. Leases, etc., of land must be by deed.
5. Any person may convey, assign or charge by any deed any contingent or executory interest, right of entry for condition broken, or other future estate or interest as he Contingent or executory interest.

shall be entitled to, or presumptively entitled to in any freehold or leasehold land or personal property, or, any part of such interest, right, or estate respectively; and every person to whom any such interest, right or estate shall be conveyed or assigned, his heirs, executors, administrators or assigns, according to the nature of the interest, right or estate, shall be entitled to stand in the place of the person by whom the same shall be conveyed or assigned, his heirs, executors, administrators or assigns, and to have the same interest, right or estate, or such part thereof as shall be conveyed or assigned to him, and the same actions, suits, and remedies for the same, as the person originally entitled thereto, his heirs, executors or administrators, would have been entitled to, if no conveyance, assignment, or other disposition thereof had been made:

Provided that no person shall be empowered by this Act to dispose of any expectancy which he may have as heir, or heir of the body inheritable, or as next of kin under the Act for the distribution of the estates of intestates, of a living person, nor any estate, right or interest to which he may become entitled under any deed hereafter to be executed, or under the will of any living person; and no deed shall, by force of this Act, bar or enlarge any estate tail further than it would have done if this Act had not been passed:

Provided also that no chose in action shall by this Act be made assignable at law.

Words
"grant" or
"exchange"
not to
create
warranty.

6. Neither the word "grant" nor the word "exchange", in any deed, shall have the effect of creating any warranty or right of re-entry; nor shall either of such words have the effect of creating any covenant by implication, except in cases where, by any enactment of this Island, it is or shall be declared that the word "grant" shall have such effect.

7. After the time at which this Act shall come into operation no estate in land shall be created by way of contingent remainder; but every estate which before that time would have taken effect as a contingent remainder shall take effect (if in a will or codicil) as an executory devise, and (if in a deed) as an executory estate of the same nature and having the same properties as an executory devise; and contingent remainders existing under deeds, wills, or instruments executed or made before the time when this Act shall come into operation shall not fail, or be destroyed, or barred, merely by reason of the destruction or merger of any preceding estate, or its determination by any other means than the natural effluxion of the time of such preceding estate, or some event on which it was, in its creation, limited to determine.

No estate in land to be created by way of contingent remainder.

8. When any person entitled to any freehold land by way of mortgage has or shall have departed this life, and his executor or administrator is or shall be entitled to the money secured by the mortgage, and the legal estate in such land is or shall be vested in the heir or devisee of such mortgagee, or the heir, devisee, or other assign of such heir or devisee, and possession of the land shall not have been taken by virtue of the mortgage, nor any action or suit depending, such executor or administrator shall have power, upon payment of the principal money and interest due to him on the said mortgage to enter satisfaction in the margin of the record of the said mortgage, in the Record Office, or otherwise to convey by deed or surrender (as the case may require) the legal estate which became vested in such heir or devisee; and such entry of satisfaction or conveyance shall be as effectual as if the same had been made by any such heir or devisee, his heirs or assigns.

Entry of satisfaction of mortgage.

9. It shall not be necessary in any case to have a deed indented; and any person, not being a party to any deed, may take an immediate benefit under it in the same manner as he might under a deed poll.

Deed need not be indented.

Merger of
reversion
expectant
upon lease.

10. Where the reversion of any land, expectant on a lease, shall be merged in any remainder or other reversion or estate, the person entitled to the estate into which such reversion shall have merged, his heirs, executors, administrators, successors and assigns, shall have and enjoy the like advantage, remedy, and benefit against the lessee, his heirs, successors, executors, administrators and assigns, for non-payment of the rent, or for doing of waste or other forfeiture, or for not performing conditions, covenants or agreements contained and expressed in his lease, demise, or grant, against the lessee, farmer, or grantee, his heirs, successors, executors, administrators, and assigns, as the person who would for the time being have been entitled to the *mesne* reversion which shall have merged would or might have had and enjoyed, if such reversion had not been merged.

Commence-
ment of
Act.

11. This Act shall not extend to any deed, act or thing executed or done, or (except so far as regards the provisions hereinbefore contained as to existing contingent remainders) to any estate, right or interest created before the first of July, 1845.