

THE REAL PROPERTY REPRESENTATIVE ACT Cap. 332.

[1st December, 1903.]

1. This Act may be cited as the Real Property Short title.
Representative Act.

2. In this Act—Interpreta-
tion.

“land” means all hereditaments corporeal and incorporeal;

“personal representative” means an executor or administrator who has obtained probate or letters of administration;

“the Court” means the Supreme Court, or any Judge thereof; and in cases within the jurisdiction of any Resident Magistrate’s Court, the Judge of such Court;

“prescribed” means prescribed by rules of court;

“registered land” means land registered under the Registration of Titles Act.

3.—(1) Where real estate is vested in any person, without a right in any other person to take by survivorship, it shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his personal representatives or representative from time to time, as if it were a chattel real vesting in them or him.

Devolu-
tion
of real
estate to
personal re-
presentative.

(2) This section shall apply to any real estate over which a person executes by will a general power of appointment, as if it were real estate vested in him.

(3) Probate and letters of administration may be granted in respect of real estate only, although there is no personal estate.

(4) This section applies only in cases of death from and after the commencement of this Act.

Vesting of
real estate
of intestate
without heir.

4. On the death of any person without an heir any real estate vested in such person with respect to which such person died intestate shall, if probate or letters of administration in respect of the estate of such person have been granted to the Administrator-General, or if letters of administration to the use and benefit of the Crown have been granted to the Crown Solicitor, devolve to and become vested in the Administrator-General or Crown Solicitor, as the case may be, from time to time, as if such real estate were a chattel real vesting in either of them, and such real estate shall be subject in all respects to the provisions of this Act in the same manner as if such real estate were real estate devolving to and becoming vested in a personal representative by virtue of the provisions of this Act.

Trusts on
which
personal
representa-
tives shall
hold realty.

5.—(1) Subject to the powers, rights, duties and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold the real estate as trustees for the persons by law beneficially entitled thereto, and those persons shall have the same power of requiring a transfer of real estate, as persons beneficially entitled to personal estate have of requiring a transfer of such personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties and liabilities of personal representatives in respect of personal estate, shall apply to real estate so far as the same are applicable, as if that real estate were a chattel real vesting in them or him, save that it shall not be

lawful for some or one only of several joint personal representatives, without the authority of the Court, to sell or transfer real estate.

(3) In the administration of the assets of a person dying after the 1st December, 1903, his real estate shall be administered in the same manner, subject to the same liabilities for debt, costs and expenses, and with the same incidents, as if it were personal estate:

Provided, that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts, or legacies, or the liability of real estate to be charged with the payment of legacies.

(4) Where a person dies possessed of real estate, the Court shall, in granting letters of administration, have regard to the rights and interests of persons interested in his real estate, and his heir-at-law, if not one of the next of kin, shall be equally entitled to the grant with the next of kin, and provision shall be made by rules of court for adapting the procedure and practice in the grant of letters of administration to the case of real estate.

6.—(1) At any time after the death of the owner of any land, his personal representatives may assent in writing to any devise contained in his will, or may convey the land to any person entitled thereto as heir, devisee, or otherwise, and may make the assent or conveyance, either subject to a charge for the payment of any money which the personal representatives are liable to pay, or without any such charge; and on such assent in writing or conveyance, subject to a charge for all moneys (if any) which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or conveyance.

Assent of
personal
representa-
tive to
devise of
land.

(2) At any time after the expiration of one year from the death of the owner of any land, if his personal representatives have failed on the request in writing of the person entitled to the land to convey the land to that person, the Court may, if it thinks fit, on the application of that person, and after notice to the personal representatives, order that the conveyance be made, or in the case of registered land, that the person so entitled be registered as proprietor of the land, either solely or jointly with the personal representatives.

(3) No fee other than the recording fees payable in the Record office, and the registration fees payable in the Office of Titles, and no stamp duty shall be chargeable or payable on or in respect of any assent, conveyance or transfer by the personal representative of such deceased person, unless such assent, conveyance, or transfer is for valuable consideration.

(4) The production of an assent in the prescribed form by the personal representatives of a deceased proprietor of registered land, shall authorize the Registrar to register the person named in the assent as proprietor of the land.

Appropriation
of
residuary
estate in
satisfaction
of legacy or
share.

7.—(1) The personal representatives of a deceased person may, in the absence of any express provision to the contrary contained in the will of such deceased person, with the consent of the person entitled to any legacy given by the deceased person or to a share in his residuary estate, or if the person entitled is a lunatic or an infant with the consent of his committee, trustee, or guardian, appropriate any part of the residuary estate of the deceased in or towards satisfaction of that legacy or share, and may for that purpose value, in accordance with the prescribed provisions, the whole or any part of the property of the deceased person, in such manner as they think fit:

Provided, that before any such appropriation is effectual, notice of such intended appropriation shall be given to all persons interested in the residuary estate, any of whom may thereupon, within the prescribed time, apply to the Court, and such valuation and appropriation shall be conclusive, save as otherwise directed by the Court.

(2) Where any property is so appropriated, a conveyance thereof by the personal representatives to the person to whom it is appropriated shall not by reason only that the property so conveyed is accepted by the person to whom it is conveyed, in or towards the satisfaction of a legacy or a share in residuary estate, be liable to any higher stamp duty than that payable on a transfer of personal property for a like purpose.

(3) In the case of registered land, the production of the prescribed evidence of an appropriation under this section, shall authorize the Registrar to register the person to whom the property is appropriated as proprietor of the land.

8. In the administration of the estate of any person no debt or liability of such person shall be entitled to any priority or preference by reason merely that the same is secured by or arises under a bond, deed, or other instrument under seal, or is otherwise made or constituted a specialty debt; but all the creditors of such person, as well specialty as simple contract, shall be treated as standing in equal degree, and be paid accordingly out of the assets of such deceased person, whether such assets are legal or equitable, any statute or other law to the contrary notwithstanding:

Priority of
specialty
debts
abolshed.

Provided always, that this section shall not prejudice or affect any lien, charge, or other security which any creditor may hold or be entitled to for the payment of his debt.