
STATUTORY INSTRUMENTS

1997 No. 1179

The Property (Northern Ireland) Order 1997

PART II

GROUND RENTS AND CERTAIN OTHER PAYMENTS

The redemption of ground rents

Compulsory redemption in case of dwelling-house

6.—(1) Subject to paragraphs (3) and (5) and Article 7, a conveyance of a dwelling-house to be held for an estate in fee simple or for a leasehold estate, subject (in either case) to a ground rent, is ineffective to pass such an estate.

(2) Paragraph (1) does not affect any right arising in equity.

(3) Where a conveyance to which paragraph (1) applies is a purported conveyance of a fee simple, it has effect as an agreement with the purported grantee binding the purported grantor to redeem the ground rent at no expense to the purported grantee; and upon the redemption of the ground rent the conveyance has effect, and is deemed always to have had effect, in accordance with its terms but subject to the provisions of this Order, as if paragraph (1) had not been applicable.

(4) Where a conveyance to which paragraph (1) applies is a purported assignment of a lease, the conveyance has effect as an agreement with the purported assignee binding the purported assignor—

- (a) to acquire the fee simple in the dwelling-house, free from any ground rent, at no expense to the purported assignee; and
- (b) to convey the fee simple to the purported assignee without any consideration beyond that specified in the purported assignment.

(5) Paragraph (1) does not apply to a conveyance made on or after the appointed day in pursuance of an obligation assumed before that day (and a recital to that effect in such a conveyance is, for the purposes of this paragraph, conclusive evidence of that fact).

(6) An agreement made on or after the appointed day—

- (a) where it is an agreement to make a conveyance to which paragraph (1) applies of a fee simple, has effect as an agreement to redeem the ground rent, at no expense to the person to whom the conveyance is to be made, and to convey the fee simple free from the ground rent;
- (b) where it is an agreement to make a conveyance to which paragraph (1) applies of a leasehold estate, has effect as an agreement such as is mentioned in paragraph (4) (references to the purported assignee or assignor and the consideration specified in the purported assignment being read as references to the intended assignee or assignor and the consideration intended to be specified in the intended assignment).

(7) Where the estate purported to be conveyed by a conveyance to which paragraph (1) applies purports to be subject to a mortgage, the mortgage binds the fee simple, when the conveyance is

validated under paragraph (3) or when the fee simple is conveyed as mentioned in paragraph (4), as if it had been created in relation to the fee simple, and in particular—

- (a) where the instrument creating the mortgage purported to be a lease or an assignment of a leasehold estate, it has effect as if it were a conveyance of the fee simple;
- (b) where the instrument creating the mortgage purported to be a sub-lease, it has effect as if it were a lease for a term equivalent to the term of the sub-lease,

and the purported grantor's or assignor's duty to implement the agreement imported by paragraph (3) or (4) is enforceable by the mortgagee, whether he is in possession or not, as though the mortgagee were a party to the imported agreement (and, accordingly, those paragraphs apply as if references in them to the purported grantee or assignee, except the reference in paragraph (4)(b) to a conveyance to the purported assignee, included the mortgagee).

(8) Where a conveyance such as is mentioned in paragraph (1) is a transfer of registered land, the Registrar shall refuse to accept the conveyance unless he is satisfied either—

- (a) that the conveyance is one to which paragraph (1) does not apply; or
- (b) that the conveyance falls within paragraph (3) and the ground rent has been redeemed.

(9) It is sufficient to satisfy the Registrar as to the matter mentioned in paragraph (8)(a) or (b) that he is furnished by a solicitor with a certificate to that effect stating the grounds on which the certificate is based.

(10) Where a dwelling-house is held in undivided shares, the conveyance of such a share is, for the purposes of this Article, a conveyance of the dwelling-house.

(11) In this Article—

“conveyance” means a conveyance or other assurance of land for value in money or money's worth and includes—

- (a) an assignment of a lease; and
- (b) a transfer of registered land (and, accordingly, references to a conveyance or assignment are to be read, where appropriate, as including references to a transfer),

but does not include a grant of a lease (where not prohibited by Article 30), the surrender of a lease or the grant of a mortgage;

references to the purported grantor, the purported grantee, the purported assignor and the purported assignee include, as the case requires, references to their respective successors in title or the persons who would have been their respective successors in title if the conveyance had had the effect intended (and similarly in relation to a mortgage).