



Land Registry Act 1862

1862 CHAPTER 53

PART II

SIMPLIFICATION OF TITLE BY JUDICIAL SALES

Sales by Court of Chancery

41 Sales of Land may be made by the Court, on Application by Owner.

Sales may be made by the Court of Chancery of Land with an indefeasible Title, upon the Application, by Petition or otherwise, as General Orders may direct, of any of the Persons who are hereinbefore empowered to apply for Registration of Title.

42 Application to be served on Parties.

Such Application shall be served on such Persons as the Court shall think fit, before a preliminary Order is made.

43 Court shall provide for Examination of Title, &c. before making Order for Sale.

By its preliminary Order or Orders, the Court shall provide for the Examination of the Title to the Land, and the Ascertainment of a correct Description thereof, and shall also make such Inquiries as to the Parties interested, either as Incumbrancers, Owners, or otherwise, and direct such Notices to be given as are herein-before directed on the Occasion of Application to the Registrar for Registration of an indefeasible Title, and shall also direct such other Notices, if "any, to be given as it thinks necessary to enable it to form a Judgment as to the Propriety of a Sale, and shall hear by themselves, their Counsel or Agents, any Persons interested in such Land who may apply to them to be heard, and shall, upon the Conclusion of such Inquiries, and after hearing such Parties, if any, as aforesaid, make such Order as to the Sale of such Lands as it thinks just.

Status: This is the original version (as it was originally enacted).

44 Applicant to give Security for Costs.

Before making any Order the Court may require the Applicant to give Security for Costs.

45 Purchase Money to be paid into the Bank as Court may direct.

The Purchase Money on any Sale made by the Court shall be paid as the Court may direct; and the Court may make an Order vesting the Land in the Purchaser, subject or not, as the Case may require, to the Incumbrances specified in such Order, and subject in all Cases to such Charges or Interests as may be subsisting thereon, and are herein-before declared not to be Incumbrances within the Meaning of this Act.

46 Such Payment to exonerate Purchaser from Liability.

The Payment of the Purchase Money in manner directed by the Court shall exonerate the Purchaser from all Liability whatsoever with respect to the same.

47 Vesting Order to be stamped.

Any Vesting Order by the Court shall bear the same Stamp as if it were a Conveyance made by an ordinary Vendor.

48 Applicant for Sale and his Solicitor may be examined concerning Title before Vesting Order made.

Before any Vesting Order is made as aforesaid, the Applicant for the Sale or his Solicitor maybe personally examined by the Court, or required to give satisfactory Evidence as to the Fact that all Settlements, Deeds, Wills, and Instruments of Title, and all Charges and Incumbrances affecting the Title to the Land which is the Subject of the Application, and all Facts material to such Title, have been disclosed, and that there is not to their or either of their Knowledge, Information, or Belief any Deed, Charge, or Incumbrance affecting the Title to the said Land, nor any Fact material to the said Title, not fully and fairly disclosed as aforesaid: The Court may require any Person proposing to make an Affidavit in pursuance of this Section to state in his Affidavit what Means he has had of becoming acquainted with the several Matters referred to in this Section, and if the Court is of opinion that any further or other Evidence is necessary, it shall not make such Vesting Order until such further or other Evidence is produced.

49 Where Sales are made under 20 Vict. c. 120. the Court may make Order as under this Act.

Where any Sale of the Fee Simple of Land is about to be made under the Order of the Court of Chancery, in pursuance of an Act passed in the Twentieth Year of the Reign of Her present Majesty, Chapter One hundred and twenty, and intituled *An Act to facilitate Sales and Leases of Settled Estates*, or of any Act amending the same, or in pursuance of any other Order of the Court, the Court of Chancery may, on the Application of any Parties interested in such Sale, take such Steps as are herein-before directed and, if satisfied of the Propriety of so doing, may make an Order directing the Land to be put up for Sale with an indefeasible Title, and also an Order vesting

the Land in a Purchaser, and any such Vesting Order shall have the same Effect as if it had been made on an Application to the Court under this Part of this Act

50 Vesting Order to confer on Person in whom Land is vested an Estate in Fee Simple, with all Rights, Privileges, &c.

Every Vesting Order made by the Court of Chancery in pursuance of this Part of this Act shall confer on the Person in whom the Land is vested an Estate in Fee Simple, together with all Rights, Privileges, and Appurtenances therewith enjoyed, or reputed as belonging or appurtenant thereto, subject to the Incumbrances, Exceptions, or Qualifications, if any, appearing in the Order, and subject also to such Charges and Interests, if any, as are hereinbefore declared not to be Incumbrances, but free from all other Estates, Rights, Incumbrances, and Interests whatsoever, including all Estates, Interests, and Claims of Her Majesty, Her Heirs and Successors.

51 Court may make a qualified Vesting Order, where Title is shown for a limited Period only.

Where upon an Application being made for a Sale by the Court of Chancery it is proposed that a good Title should be shown to the Purchaser for a limited Period only, the Court may make a qualified Vesting Order, declaring by a Statement contained in such Order, or by Endorsement thereon, or by such other Manner as the Court thinks fit, that the Title is to be deemed to commence from the Date of some specified Instrument or at or on some specified Time or Event.

52 Effect of qualified Vesting Order.

A qualified Vesting Order shall not affect or prejudice any Estate, Title, or Interest in or to such Land created or arising prior to the Date at which the Title is stated to commence, but, save as aforesaid, shall have the same Effect as an absolute Vesting Order.

53 Court of Chancery may require Production of Deeds, &c.

The Court of Chancery may, in the Course of any Proceedings relating to Land wherein a Vesting Order is sought to be obtained, require all Persons having any Deeds or Evidences of Title relating to such Land, who are bound by Law so to do, to produce the same to the Court, upon such Terms and subject to such Conditions as the Court may think just.

54 Distribution of Monies paid into Bank.

The Court of Chancery shall determine the Rights and Priorities of the several Persons entitled to or interested in any Money payable under this Part of this Act, and shall distribute the same among such Persons in accordance with such Rights and Priorities.

55 As to Disposal of Money not immediately distributable.

Where any Money is payable in pursuance of this Act, and is not immediately distributable, or the Parties entitled thereto cannot be ascertained, or where from any other Cause the Court thinks it expedient for the Protection of the Rights of the Parties interested therein, it may order such Money to be placed to such Account as the Court

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directs, in trust to attend the Orders of the Court, and it may by its Order declare the Trusts affecting such Money so far as it has ascertained the same, or state the Facts found by it in relation to the Rights and Interests therein, and generally the Court may make such Orders with respect to any such Money, and the Investment or Application thereof, or the Payment thereof out of Court, as the Circumstances of the Case require.

56 As to Disposal of Deeds after Vesting Order made.

When the Court of Chancery has made a Vesting Order of Land in pursuance of this Part of this Act, all such Deeds and Evidences of Title delivered to the Court as relate exclusively to the Land, and which the Purchaser is entitled to, shall be delivered to him ; and all other Deeds and Evidences of Title delivered to the Court relating to the Land or to any Part thereof shall be returned to the Parties entitled to the Custody thereof, but previously to the same respectively being so delivered or returned they shall be stamped or otherwise marked in such Manner as to give Notice to any Person inspecting such Deeds or Evidences of Title of the Proceedings taken by the Court in relation to the Land or any Portion of the Land comprised in such Deeds.

57 Vesting Order to direct Entry on Register.

Every such Vesting Order may direct the Registrar to enter the Name of the Person entitled on the Register as the Proprietor of the Land with an indefeasible or qualified Title, as the Case may be, and in such Case the Order shall state the Name and Description of the Person entitled, and describe the Lands to be registered, with the Addition of the Incumbrances, if any, affecting such Lands, and such other Matters as the Court thinks fit to insert therein, including, in the Case of an Applicant entitled only to a qualified Vesting Order, a Statement of the Time or Event at or on which the Title, as registered, is to commence.

58 Registration with a qualified Title not to affect prior Claims.

The Registration of any Person as First Proprietor of Land with a qualified Title shall not affect or prejudice the Right of any Person claiming any Estate, Title, or Interest created or arising prior to the Time or Event at or on which the Title is stated on the Register to commence, but, save as aforesaid, shall have the same Effect as Registration with an indefeasible Title.

59 Entry of Discharge of Incumbrance.

Where upon the First Registration of the Land under a Vesting Order Notice of any Incumbrance affecting such Land has been entered on the Register, the Registrar shall, on Proof of the Discharge of such Incumbrance, enter a Memorandum of such Discharge on the Register, and upon such Entry being made the Incumbrance shall be deemed to be discharged.

60 Compensation to Persons aggrieved.

Where any Order has been made by the Court of Chancery vesting Land in a Purchaser, or where any Person has been registered with an indefeasible Title under a Vesting Order, any Person aggrieved by such Order or Registration may apply to the Court of Chancery to be reimbursed for any Injury he may have sustained, out of any Purchase Money that may be remaining in Court.

61 As to Costs and Expenses.

In every Proceeding under this Act the Court shall have full Power and Discretion as to the giving or withholding Costs and Expenses, and as to the Persons by whom and the Funds out of which the same shall in the first instance or ultimately be paid, repaid, and borne, and may direct the same to be paid to or apportioned among such Persons as it sees fit.

62 As to Assignment of Duties.

The Lord Chancellor may from Time to Time assign the Duties by this Part of this Act vested in the Court of Chancery to any particular Judge or Judges of that Court, and may appoint such new or additional Clerk or Clerks as to him may seem necessary for enabling such Judge or Judges duly to execute the Duties imposed on it, and every such additional Clerk shall receive out of the Suitors Fee Fund such Salary as the Lord Chancellor may think proper.