



Law of Property Act 1922

1922 CHAPTER 16

PART X

AMENDMENTS OF THE LAND TRANSFER ACTS, 1875 AND 1897.

Rectification and Indemnity.

174 Rectification of the register.

- (1) The register may be rectified pursuant to an order of the court or by the registrar, subject to appeal to the court, in any of the following cases, but subject to the following provisions:—
 - (a) In any of the cases mentioned in sections ninety-five or ninety-six of the Act of 1875 (as amended); and
 - (b) In any case and at any time with the consent of all persons interested; and
 - (c) Where the court or the registrar is satisfied that the registration of any person as first proprietor of land, or of a charge, mortgage, or other interest, or that any notice or other entry in the register for protecting any estate, right, or interest has been obtained by fraud, by annulling the registration, notice or other entry; and
 - (d) Where two or more persons are, by mistake, registered as proprietors of the same freehold or leasehold land or of the same charge, mortgage, or other registered interest, by cancelling one or more of the registrations ; and
 - (e) In any other case where, by reason of any error or omission in the register, or by reason of any entry procured by fraud or made under a mistake, it may be deemed just to rectify the register.
- (2) The register may be rectified under this section, notwithstanding that the rectification may affect any estates, rights, charges, or interests acquired or protected by registration, or by any entry on the register, or otherwise.
- (3) The register shall not be rectified, except for the purpose of giving effect to an overriding interest, so as to affect the title of the registered proprietor of the land

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who is in possession, unless such proprietor is a party or privy or has caused or substantially contributed, by his act, neglect, or default, to the fraud, mistake, or omission in consequence of which such rectification is sought, or unless the immediate disposition to him was void, or the disposition to any person through whom he claims (otherwise than for valuable consideration) was void, or unless for any other reason, in any particular case, it is considered that it would be unjust not to rectify the register against him.

- (4) Where a person is in possession of registered land in right of a minor interest, he shall, for the purposes of this section, be deemed to be in possession as agent for the registered proprietor.

175 Right to indemnity in certain cases.

- (1) Subsections (1), (2), (3), and (4) of section seven of the Act of 1897 are hereby repealed and the following provisions shall have effect in lieu thereof:—

“(1) Subject to the provisions of the Acts to the contrary, any person suffering loss by reason of any rectification of the register under the Acts shall be entitled to be indemnified :

(2) Where an error or omission has occurred in the register, but the register is not rectified, then any person suffering loss by reason of such error or omission, shall, subject to the provisions of the Acts, be entitled to be indemnified:

(3) Where any person suffers loss by reason of the loss or destruction of any document lodged at the registry for inspection or safe custody, or, an error in any official search, he shall be entitled to be indemnified under the Acts:

(4) Subject as hereinafter provided, a registered proprietor of land or a charge claiming in good faith under a forged disposition shall be deemed to have suffered loss thereby and be entitled to be indemnified under the Acts :

(5) No indemnity shall be payable under the Acts in any of the following cases :—

(a) Where the applicant has himself caused or substantially contributed to the loss (whether arising by reason of any fraud, error, or omission) by his fraud, or derives title (otherwise than under a disposition for valuable consideration which is registered or protected on the register) from a person so committing fraud;

(b) On account of any mines and minerals not being comprised in the registered title, or of the existence of any adverse rights to work or get mines and minerals, unless a note is entered on the register that the mines and minerals are registered;

(c) On account of costs incurred in taking or defending any legal proceedings without the consent of the registrar :

(6) Where an indemnity is paid in respect of the loss of an estate or interest in or charge on land, the amount so paid shall not exceed—

(a) Where the register is not rectified, the value of the estate, interest or charge at the time when the error or omission which caused the loss, was made;

(b) Where the register is rectified, the value (if there had been no rectification) of the estate, interest or charge immediately before the time of rectification.

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- (7) In granting any indemnity the registrar may have regard to any costs and expenses properly incurred in relation to the matter, and may add the same to the amount of the indemnity money which would otherwise be payable.”
- (2) In subsection (6) of section seven of the Act of 1897 the word " fraud " is hereby substituted for the words " act, neglect, or default " at the end of that subsection.
- (3) The registrar shall be entitled to enforce, on behalf of the Crown, any express or implied, covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.
- (4) Subsection (7) of section seven aforesaid shall take effect subject to the following provisions:—
- (i) Where a claim to indemnity arises in consequence of the registration of land with an absolute or good leasehold title, the claim shall be enforceable only if made within six years from the date of such registration, except in the following cases:—
- (a) Where at the date of registration the person interested is an infant, the claim by him may be made within six years from the time he attains full age; or
- (b) In the case of settled land, or land held on trust for sale, where a person is interested in remainder or reversion, the claim by him may be made within six years from the time when his interest falls into possession ; or
- (c) Where a claim arises in respect of a restrictive covenant affecting freehold land which by reason of notice or the registration of a land charge or otherwise was binding on the first registered proprietor at the time of first registration, the claim shall only be enforceable within six years from the breach of the covenant:
- (ii) Where any person interested is entitled as a proprietor of a charge or as a mortgagee protected by a caution in the specially prescribed form, the claim by him may be made within six years from the last payment in respect of principal or interest.