



Law of Property Act 1925

1925 CHAPTER 20

PART III

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY.

Mortgages.

86 Mode of mortgaging leaseholds.

- (1) A mortgage of a term of years absolute shall only be capable of being effected at law either by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage; and where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security had been effected by assignment.

- (2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely:—
- (a) The term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned:
 - (b) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned:

and, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

Status: This is the original version (as it was originally enacted).

- (3) This section applies whether or not the land is registered under the Land Registration Act, 1925, or the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise.
- (4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage for or to lend money on mortgage of a term of years absolute by way of assignment shall be construed as a power to mortgage the term by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.