



Land Registry Act 1862

1862 CHAPTER 53

PART IV

GENERAL PROVISIONS TO FACILITATE REGISTRATION

89 Money Charge not ascertained, &c. may be referred to Judge at Chambers.

If on the Examination of any Title it shall appear that the Land or any Part of it is subject to any Money Charge or Incumbrance, the Ownership of which is not ascertained, or the Right to which is doubtful or uncertain, or to any doubtful or uncertain Right or Claim which may be estimated or compensated by Money, and does not involve a Right to the Land itself otherwise than as a Security for Money, the Case may, at the Request of the Applicant for Registration, be referred to a Judge of the Court of Chancery sitting in Chambers for the Purpose of determining whether such Right or Claim and the Costs of any Party entitled by virtue thereof can be justly provided for by Payment of Money into Court, and if so to fix the Sum to be so paid in, and direct the Investment and Application of the Interest thereof; and after such Payment shall have been made the Land and the Title thereto shall be wholly discharged from such Right, Claim, Charge, or Incumbrance as fully as if the same had never existed.

90 Judge may order Money not distributable, &c. to be paid into Court of Chancery.

Where any Part of the Money arising from the Sale of a registered Estate is not immediately distributable, or the Persons entitled thereto cannot be fully ascertained, it shall be competent for One of the Judges of the Court of Chancery, on any Application for that Purpose made with the Concurrence of the Registrar, to direct any Sum of Money arising from such Sale to be paid into the Court of Chancery, or otherwise invested, and to declare the Account or Purpose to or for which such Money is to be transferred or holden, and afterwards to make all such Orders touching such Money, and the Investment, Application, and Distribution thereof, as the Circumstances of the Case may require.

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91 Deeds to be stamped.

When an Estate is entered on the Register, whether with or without an indefeasible Title, all such Deeds and Evidences of Title as shall be produced to the Registrar, under any of the Provisions aforesaid, shall be stamped or endorsed in such a Manner, under the Direction of the Registrar, as to give Notice to any Person to whom such Deeds or Instruments may be afterwards produced that the Land, or some Portion of the Land comprised therein, has been registered under this Act.

92 Judge may decide Questions of Priority of Incumbrances, &c.

If in any Proceeding under this Act any Question shall arise respecting the Priority of any Charges or Incumbrances, Claims or Interests, it shall be competent to the Registrar to report the same to a Judge of the Court of Chancery, who shall have Power to summon all Parties interested to attend him either in Court or at Chambers, and to decide all Questions touching the Priority and relative Rights of the Parties, as fully as if they were Parties to a Suit instituted for the Purpose.

As to Restraint of Conveyance

93 Judge may decide Questions of Priority of Incumbrances, &c. As to Restrictions on Conveyance, &c. of Land.

Where the registered Proprietor of any Land or Charge is desirous for his own Sake, or at the Request of some Person beneficially interested in such Land or Charge, to place Restrictions on transferring or charging such Land or Charge, such Proprietor may, upon Application to the Registrar, direct that no Transfer shall be made of or Charge created on such Land or Charge, unless the following Things, or such of them as he may prescribe, are done; (that is to say,)

Unless Notice of any Application for a Transfer or Creation of a Charge is transmitted by Post to such Address as he may specify to the Registrar :

Unless the Consent of some Person or Persons, to be named by such Proprietor, is given to the Transfer or Creation of a Charge:

Unless some such other Matter or Thing is done as may be required by the Applicant and approved by the Registrar.

94 Registrar to make a Note of such Restrictions.

The Registrar shall thereupon make a Note of such Directions on the Record of Title of such Proprietor, or otherwise as he shall think fit, and no Transfer shall be made or Charge created except in conformity with such Directions ; and any such Directions may at any Time be withdrawn or modified at the Instance of all the Persons for the Time being appearing to the Registrar to be interested in such Directions, and shall also be subject to be set aside by the Order of a Judge of the Court of Chancery.

95 Court of Chancery may exercise Powers of 13 & 14 Vict. c. 60.

For the Purpose of authorizing or compelling a Transfer to be made of any registered Land or Charge, the Court of Chancery may exercise all such Powers as are vested in it by the Trustee Act, 1850, or by any Act amending the same, in relation to Transfers of Stock.

Caution

96 Person interested may lodge Caution with Registrar.

Any Person interested under an Agreement, or otherwise howsoever, in any Land or Charge registered in the Name of any other Person, may lodge a Caveat with the Registrar to the Effect that no Disposition of such Land or Charge be made until Notice has been served upon the Cautioner.

97 Caution to be supported by Affidavit.

The Caveat shall be supported by an Affidavit made by the Cautioner or his Agent, in such Form as the Registrar shall direct, stating the Nature of the Interest of the Cautioner, and such other Matters as may be required by the Registrar.

98 Statutory Disposition of Land not to be registered until Notice served on Cautioner.

After any such Caveat has been lodged in respect of any Land or Charge, the Registrar shall not register any Disposition thereof until he has served Notice on the Cautioner, warning him that his Caveat will cease to have any Effect after the Expiration of Twenty-one Days next ensuing the Date of such Notice; and after the Expiration of such Time as aforesaid the Caveat shall cease, unless an Order to the contrary is made by the Court of Chancery, and upon the Caveat so ceasing the Land or Charge shall be dealt with in the same Manner as if no Caveat had been lodged.

99 Cautioner to give Security against Damage sustained by Delay of Disposition of Property.

If before the Expiration of the said Period of Twenty-one Days the Cautioner, or some other Person on his Behalf, appears before the Registrar, and enters into a Bond, with sufficient Security, conditioned to indemnify every Person against any Damage that may be sustained by reason of any Disposition of the Property being delayed, the Court of Chancery may thereupon, if it thinks fit so to do, make an Order on the Registrar requiring him to delay registering any Disposition of the Property for such further Period as is mentioned in the Order.

100 Compensation for lodging Caution without reasonable Cause.

If any Person lodges a Caveat with the Registrar, he shall be liable to make, to any Person who may have sustained Damage by the lodging of such Caveat, such Compensation as a Judge of the Court of Chancery shall deem just.

Injunction

101 Court of Chancery may issue Order restraining Disposition of Land, &c.

The Court of Chancery may, without Prejudice to the Exercise of any other Power of the Court, upon the Application of any Person interested in any registered Land made in such Manner as the Court directs, issue an Order restraining for a Time, or until the

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Occurrence of an Event to be named in such Order, or generally until further Order, any Disposition of any Land or Charge.

102 Court of Chancery may annex Terms, &c. to such Order.

The Court may make or refuse any such Order, and annex thereto any Terms or Conditions it may think fit, and discharge such Order when granted, with or without Costs, and generally act in the Premises in such Manner as the Justice of the Case requires ; and the Registrar, without being made a Party to the Proceedings, upon being served with such Order or an official Copy thereof, shall obey the same.

103 Jurisdiction of Courts of Equity.

Nothing contained in this Act shall take away or affect the existing Jurisdiction of Courts of Equity, on the Ground of actual Fraud.

104 Acts relating to Registries in Middlesex and York not to apply to Land on Register under this Act.

The Provisions of the several Acts of Parliament now in force relating to the Registries which have been established in the Counties of *Middlesex* and *York* shall cease to be applicable to any Land situate in the said Counties respectively, so soon as the same Land has been put upon the Register under the Provisions of this Act, and whilst it remains thereon.

Penalty on Fraud, &c

105 Person making false Statement guilty of Misdemeanor.

If in any Proceeding to obtain the Registration of any Land, or any Land Certificate or Certificate of Title, or otherwise in any Transaction relating to Land which is or is proposed to be put upon the Registry, any Person acting either as Principal or Agent shall, knowingly and with Intent to deceive, make or assist or join in or be privy to the making of any material false Statement or Representation, or suppress, conceal, or assist or join in or be privy to the suppressing, withholding, or concealing from any Judge, or the Registrar, or any Person employed by or assisting the Registrar, any material Document, Fact, or Matter of Information, every Person so acting shall be deemed to be guilty of a Misdemeanor, and on Conviction shall be liable to be imprisoned for a Term not exceeding Three Years, and either with or without Hard Labour, or to be fined such Sum as the Court by which he is convicted shall award: The Act or Thing done or obtained by means of such Fraud or Falsehood shall be null and void to all Intents and Purposes, except as against a Purchaser for valuable Consideration without Notice.

106 As to Persons aggrieved by Proceeding, &c. for any Act declared a Misdemeanor.

No Proceeding or Conviction for any Act hereby declared to be a Misdemeanor shall affect any Remedy which any Person aggrieved by such Act may be entitled to, either at Law or in Equity, against the Person who has committed such Act.

107 Answers to Bills, Questions, &c. not admissible in Evidence.

Nothing in this Act contained shall entitle any Person to refuse to make a complete Discovery by Answer to any Bill in Equity, or to answer any Question or Interrogatory in any Civil Proceeding, in any Court of Law or Equity, or in the Court of Bankruptcy; but no Answer to any such Bill, Question, or Interrogatory shall be admissible in Evidence against such Person in any Criminal Proceeding.