

CHAPTER 31. No. 8.**BILLS OF SALE.**

Ordinances
Cap. 185—
1925.
No. 19—1939,
s. 11.

AN ORDINANCE RELATING TO BILLS OF SALE.

Commencement.

[18th June, 1925.]

Short title.

1. This Ordinance may be cited as the Bills of Sale Ordinance.

Application
of Ordinance.

2. This Ordinance shall apply to every bill of sale (whether the same be absolute, or subject or not subject to any trust) whereby the holder or grantee has power, either with or without notice, and either immediately or at any future time, to seize or take possession of any personal chattels comprised in or made subject to such bill of sale.

Interpreta-
tion.

3. In this Ordinance—

“ bill of sale ” includes bills of sale, assignments, transfers, declarations of trust without transfer, inventories of goods with receipt thereto attached, or receipts for purchase moneys of goods, and other assurances of personal chattels, and also powers of attorney, authorities, or licences to take possession of personal chattels as security for any debt, and also any agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to any personal chattels, or to any charge or security thereon, is conferred; but shall not include the following documents, that is to say, deeds whereby any live stock or dead stock or other chattels shall be conveyed or mortgaged together with any plantation or lands, assignments for the benefit of the creditors of the person making or giving the same, marriage settlements, assignments of any ship, vessel, boat, or craft of any description

or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale of goods not in the Colony, bills of lading, India warrants, warehouse-keepers' certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods authorising or purporting to authorise either by endorsement or by delivery the possessor of such document to transfer or receive goods thereby represented;

“ mortgage bill of sale ” means any bill of sale given by way of security for the payment of money;

“ personal chattels ” means goods, furniture, and other articles capable of complete transfer by delivery, and (when separately assigned or charged) fixtures; but shall not include chattel interests in real estate, nor fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, nor growing crops, nor shares or interests in the stock, funds, or securities of any government or in the capital or property of incorporated companies, nor things in action, nor any live or dead stock or produce upon any plantation which by virtue of any covenant or agreement ought not to be removed from the plantation where the same are at the time of the making or giving of such bill of sale;

“ Registrar ” means the Registrar General.

4. Every attornment, instrument, or agreement whereby a power of distress is given or agreed to be given by any person to any other person by way of security for any present, future, or contingent debt or advance, and whereby any rent is reserved or made payable as a mode of providing for the payment of interest on such debt or advance, or otherwise for the purpose of such security only, shall be deemed to be a bill of sale within the meaning of this Ordinance of any personal chattels which may be seized or taken under such power of distress: Provided that nothing in this section shall extend to any mortgage of any estate or interest in any lands or tenements which the mortgagee, being in possession, shall have demised to the mortgagor as his tenant at a fair and reasonable rent.

Certain instruments giving powers of distress to be subject to this Ordinance.

5. No fixtures shall be deemed, under this Ordinance, to be separately assigned or charged by reason only that they are

Fixtures or growing crops not to be deemed separately assigned.

assigned by separate words, or that power is given to sever them from the land or building to which they are affixed without otherwise taking possession of or dealing with such land or building; if by the same instrument any freehold or leasehold interest in the land or building to which such fixtures are affixed is also conveyed or assigned to the same persons or person.

Bill of sale
to have
schedule of
property
attached.

6. Every bill of sale shall have annexed thereto or written thereon a schedule containing an inventory of the personal chattels comprised in the bill of sale; and such bill of sale, save as hereinafter mentioned, shall have effect only in respect of the personal chattels specifically described in the said schedule, and shall be void, except as against the grantor, in respect of any personal chattels not so specifically described.

After-
acquired
property.

7. Save as hereinafter mentioned, a bill of sale shall be void, except as against the grantor, in respect of any personal chattels specifically described in the schedule thereto of which the grantor was not the true owner at the time of the execution of the bill of sale.

Exception.

8. Nothing contained in this Ordinance shall render a bill of sale void in respect of any fixtures separately assigned or charged, where such fixtures are used in, attached to, or brought upon any land, plantation, factory, workshop, shop, house, warehouse, or other place in substitution for any of the like fixtures specifically described in the schedule to such bill of sale.

Bill of sale
to be void
unless
attested and
registered.

9. Every bill of sale and every transfer or assignment thereof shall be duly attested and shall be registered within seven clear days after the execution thereof, or if it is executed in any place out of the Colony, then within seven clear days after the time at which it would in the ordinary course of post arrive in the Colony if posted immediately after the execution thereof; and shall truly set forth the consideration for which it was given; otherwise such bill of sale, transfer, or assignment shall be void in respect of the personal chattels comprised therein.

10. Personal chattels assigned under a mortgage bill of sale shall not be liable to be seized or taken possession of by the grantee for any other than the following causes:— Power to seize chattels.

(a) if the grantor makes default in payment of the sum or sums of money thereby secured at the time therein provided for payment, or in the performance of any covenant or agreement contained in the mortgage bill of sale and necessary for maintaining the security;

(b) if the grantor becomes a bankrupt, or suffers the said goods or any of them to be distrained for rent, rates, or taxes;

(c) if the grantor fraudulently either removes or suffers the said goods, or any of them, to be removed from the premises;

(d) if the grantor, without reasonable excuse, upon demand in writing by the grantee, fails to produce to him his last receipts for rent, rates, and taxes;

(e) if execution has been levied against the goods of the grantor under any judgment at law:

Provided that the grantor may, within five days from the seizure or taking possession of any chattels on account of any of the above-mentioned causes, apply to the Supreme Court or to a Judge thereof in Chambers, and such Court or Judge, if satisfied that by payment of money or otherwise the said cause of seizure no longer exists, may restrain the grantee from removing or selling the said chattels, or may make such other order as may seem just.

11. A mortgage bill of sale shall be void, except as against the grantor, unless made in accordance with the form in the First Schedule hereto: Provided that no variation of such form shall render a bill of sale void if the Court shall be satisfied that such variation was accidental or due to inadvertence or to some other sufficient cause and is not of a nature to prejudice the rights of third parties. Form.

12. Every bill of sale shall be executed, attested, and registered under this Ordinance in the following manner:— Execution and registration.

(a) such bill of sale shall be executed by the grantor in the presence of such persons and attested and subscribed

in such manner as by the law for the time being in force is necessary to render it capable of registration as a deed;

(b) every schedule or inventory annexed to a bill of sale or referred to therein shall be registered with such bill of sale, otherwise the registration shall be void;

(c) if the bill of sale is made or given subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration shall be deemed to be part of the bill, and shall be written on the same paper or parchment therewith before the registration, otherwise the registration shall be void.

In case two or more bills of sale are given, comprising in whole or in part any of the same chattels, they shall have priority in the order of the date of their registration respectively as regards such chattels.

Bill of sale
under \$48.

13. Every mortgage bill of sale made or given in consideration of any sum under forty-eight dollars shall be void.

Chattels not
to be
removed or
sold.

14. All personal chattels seized or of which possession is taken under or by virtue of any mortgage bill of sale shall remain on the premises where they were so seized or so taken possession of, and shall not be removed or sold until after the expiration of five clear days from the day they were so seized or so taken possession of.

Rates and
taxes.

15. A mortgage bill of sale to which this Ordinance applies shall be no protection in respect of personal chattels included in such bill of sale which but for such bill of sale would have been liable to distress for the recovery of rates or taxes.

Avoidance of
certain
duplicate
bills of sale.

16. When a subsequent bill of sale is executed within or on the expiration of seven days after the execution of a prior unregistered bill of sale and comprises all or any part of the personal chattels comprised in such prior bill of sale, then if such subsequent bill of sale is given as a security for the same debt as is secured by the prior bill of sale, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the personal chattels or part thereof comprised in the prior bill, be absolutely void, unless it is proved to the satisfaction of the Court having

cognizance of the case that the subsequent bill of sale was *bonâ fide* given for the purpose of correcting some material error in the prior bill of sale, and not for the purpose of evading this Ordinance.

17. The registration of a bill of sale must be renewed once at least every three years, and if a period of three years elapses from the registration or renewed registration of a bill of sale without a renewal or further renewal (as the case may be), the registration shall become void. The renewal of a registration shall be effected by registering an affidavit stating the date of the bill of sale and of the last registration thereof, and the names of the parties thereto as stated therein, and that the bill of sale is still a subsisting security.

Renewal of registration.

Every such affidavit may be in the form set forth in the Second Schedule hereto.

18. Any Judge of the Supreme Court, on being satisfied that the omission to register a bill of sale or an affidavit of renewal thereof within the time prescribed by this Ordinance was accidental or due to inadvertence, may, in his discretion, extend the time for such registration on such terms and conditions (if any) as to security, notice by advertisement or otherwise, or as to any other matter, as he thinks fit to direct.

Rectification of register.

19. On the production of a receipt or memorandum signed by the grantee, his executors, administrators, or assigns, acknowledging that the debt for which any mortgage bill of sale was made or given has been satisfied or discharged, the signature or signatures of such grantee, his executors, administrators, or assigns, being duly attested by one witness at least and verified by the affidavit or solemn declaration of such witness, the Registrar shall endorse upon or annex to such mortgage bill of sale an entry to the effect that such bill of sale is discharged and the same shall be deemed to be discharged accordingly.

Entry of satisfaction.

20. Every affidavit or solemn declaration required by or for the purposes of this Ordinance may be sworn before any person empowered to take affidavits or solemn declarations required for the registration of deeds by the law for the time being in force in the Colony.

Affidavits.

Time for
registration.
Cap. 185—
1925, s. 23.

21. When the time for registering or renewing the registration of a bill of sale expires on a Sunday, or other day on which the Registrar's office is closed, the registration shall be valid if made on the next following day on which the office is open.

Fees.
Ord. 19-1939,
s. 11.

22. (1) The fees set out in the Third Schedule hereto shall be paid to the Registrar.

Application
of fees.
Cap. 185—
1925, s. 22.

(2) All fees received by the Registrar under this Ordinance shall be accounted for in the same manner as any other fees received by him by virtue of his office.

SCHEDULES.

FIRST SCHEDULE.

(Section 11.)

Mortgage Bill of Sale.

THIS DEED made the day of , 19 , between A. B. of of the one part and C. D. of of the other part WITNESSETH that in consideration of the sum of \$ now paid to A. B. by C. D., the receipt of which the said A. B. hereby acknowledges [or whatever else the consideration may be], he the said A. B. doth hereby assign unto C. D., his executors, administrators, and assigns, All and singular the several chattels and things specifically described in the Schedule hereto by way of security for the payment of the sum of \$ and interest thereon at the rate of per centum per annum [or whatever else may be the rate of interest or without interest as the case may be]. And the said A. B. doth further agree and declare that he will duly pay to the said C. D. the principal sum aforesaid [if interest provided for, add], together with the interest then due by equal payments of \$ on the day of , 19 [or whatever else may be the stipulated times or time for payment]. And the said A. B. doth also agree with the said C. D. that he will [here insert terms as to insurance, payment of rent, or otherwise, which the parties may agree to for the maintenance or defeasance of the security].

Provided always, that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said C. D. for any cause other than those specified in this behalf in the Bills of Sale Ordinance.

In witness, etc.

SECOND SCHEDULE.

(Section 17.)

Affidavit of Registration.

I, A. B. of do swear that a bill of sale, bearing date the day of , 19 , and made between [insert the names of the parties in the original bill of sale], and which said bill of sale was registered on the day of , 19 [insert date of registration], is still a subsisting security.

Sworn, etc.

THIRD SCHEDULE.

Fees.

(Section 22.)

The following fees shall be paid to the Registrar, namely:—

On registering any bill of sale, transfer, or assignment by which any property is sold, mortgaged or assigned, when the consideration money expressed to be paid does not exceed \$120	\$	c.
		1 20
And when such consideration money exceeds the sum of \$120 and does not exceed the sum of \$240		2 40
And when such consideration money exceeds the sum of \$240		4 80
On the affidavit or instrument used for the purpose of re-registering or discharging a bill of sale or bills of sale, in respect of each bill of sale so re-registered or discharged—		
When the consideration money does not exceed the sum of \$120		0 60
When the consideration money exceeds the sum of \$120		1 20