

TRINIDAD AND TOBAGO.

*Devolution of Property.*No. 7.—1902.*17th December, 1900.*

AN ORDINANCE to establish a real representative and to provide for the devolution of all property on death of the owner thereof.

[L.S.]

ALFRED MOLONEY,

GOVERNOR.

26th March, 1902.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as “The Property Devolution Ordinance, 1900,” and shall be read together with the Wills and Probate Ordinance, 1900, and the Distributions Ordinance, 1900, and shall come into operation on the 1st day of July 1901.

Title and commencement.

#10/1902

2.—(1.) Where any real estate is vested for any term or estate beyond his life, in any person without a right in any other person to take by survivorship, it shall, on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or executors or the administrator or administrators of his estate (who and each of whom are included in the term representative), as if it were a chattel real vesting in them or him.

Devolution of legal interest in estate on death.

And if such estate is held upon any trust or by way of mortgage, it shall likewise legally devolve on the representative of any person deceased in whom it has been vested during his life.

(2.) This section shall apply to any real estate over which a person executes by will a general power of appointment, as if it were real estate vested in him.

(3.) Probate and letters of administration shall be granted in respect of and shall take effect to vest in the executor or administrator all real estate and personal estate whatever, including chattels real. And there shall be no devolution of estate by inheritance in any case save that the beneficial interest therein shall devolve as provided in and by the Distributions Ordinance, 1900.

(4.) On the death of any person dying after the commencement hereof all his estate and effects real and personal whatever within the Colony shall vest in law in the Administrator-General until the same are divested by the grant of probate or letters of administration to some other person or persons. Provided that the Administrator-General shall not pending the grant of such probate or letters of administration take possession of or interfere in the administration of any estate save as in the Wills and Probate Ordinance 1900 provided.

Provisions as
to rights of
persons
beneficially
entitled.

3.—(1.) Subject to the powers rights duties and liabilities hereinafter mentioned, the representative of a deceased person shall hold the real estate as a trustee for the persons by law beneficially entitled thereto, and those persons shall have the same power of requiring a conveyance of real estate under Section 4 hereof as persons beneficially entitled to personal estate have hitherto had of requiring a transfer or delivery of such personal estate.

(2.) All enactments and rules of law relating to the effect of probate or letters of administration on chattels real, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties, and liabilities of personal representatives in respect of personal estate, shall apply to real estate so far as the

same are applicable, as if that real estate were a chattel real vesting in the representative, save that it shall not be lawful for some or one only of several joint representatives, without the authority of the Court, to sell or transfer real estate.

(3.) In the administration of the assets of a person dying after the commencement of this Ordinance, his real estate shall be administered in the same manner, subject to the same liabilities for debts, costs and expenses, and with the same incidents as if it were personal estate; provided that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses debts or legacies, or the liability of real estate to be charged with the payment of legacies.

4.—(1.) At any time after the death of the owner of any land, his representative may by deed assent to any devise contained in his will, and convey the land to any person entitled thereto as next of kin devisee or otherwise, and may make the assent or conveyance either subject to a charge for the payment of any money which the personal representatives are liable to pay, or without any such charge; and on such assent or conveyance, subject to a charge for all moneys (if any) which the representative is liable to pay, all liabilities of the representative in respect of the land shall cease, except as to any acts done or contracts entered into by him before such assent or conveyance.

Provision for transfer of legal estate to person entitled beneficially.

(2.) At any time after the expiration of one year from the death of the owner of any land dying after the commencement hereof, if his representative has failed on the request of the person entitled to the land to convey or transfer the land to that person, the Court may, if it thinks fit, on the application of that person, and after notice to the representative, order that the conveyance be made, or, in the case of land under the Real Property Ordinance, 1895, that the person so entitled be registered as a proprietor of the land, either solely or jointly with the representative.

(3.) The production of an assent by deed by the representative of a deceased proprietor of land under the Real Property Ordinance, 1895 shall, subject to the provisions of such Ordinance, authorize the Registrar-General to make the prescribed entry in the Real Property Register of the title of the person named in the assent as proprietor of the land, and such deed shall not be deemed to affect the title to such land until such entry has been made.

Appropriation
of estate in
satisfaction of
legacy or share
in estate.

5.—(1.) The representative of a deceased person may in the absence of any express provision to the contrary contained in the will of such deceased person, with the consent of the person entitled to any legacy or interest given by the deceased person or to a share in his residuary estate, or, if the person entitled is a lunatic or an infant, with the consent of his committee, trustee, or guardian, appropriate any part of the residuary estate of the deceased in or towards satisfaction of that legacy or share, and may for that purpose value in accordance with the prescribed provisions the whole or any part of the property of the deceased person in such manner as they think fit. Provided however that before any such appropriation is effectual, notice of such intended appropriation shall be given to all persons interested in the residuary estate, any of whom may thereupon within the prescribed time apply to the Court, and such valuation and appropriation shall be conclusive save as otherwise directed by the Court.

(2.) Where any real property is so appropriated a conveyance thereof by the representative to the person to whom it is appropriated shall not, by reason only that the property so conveyed is accepted by the person to whom it is conveyed in or towards the satisfaction of a legacy or a share in residuary estate, be liable to any higher stamp duty than that payable on a transfer of personal property for a like purpose.

(3.) In the case of land under the Real Property Ordinance, 1895, the production of sufficient evidence of an appropriation under this section shall subject to the provisions of the Real Property Ordinance authorise the Registrar-General to register the person to whom the property is appropriated as proprietor of the land, and the

sufficiency of such evidence shall be determined by the Registrar-General, subject to any directions which may be given by a judge as in such Ordinance provided.

6. A deed under Section 4 hereof shall have validity only when duly registered. No stamp duty beyond the sum of Sixpence and no registration fee beyond the sum of One Shilling shall be chargeable in respect of any such deed. Deed of assent must be registered.

7. The representative may in lieu of conveying the real estate or residuary real estate of the intestate to any persons interested therein jointly or in common, convey the same or any part thereof to each of several persons entitled jointly or in common, in severalty by way of partition by deed or deeds under Section 4 hereof. Provided however that the partition effected by such deed or deeds shall be with the consent of such persons as are *sui juris*, and by order of the Court to be obtained on originating summons in the case of such as are infants or lunatics. In the absence of agreement among the persons entitled of full age as to any such conveyance by way of partition, it shall be lawful for the executor or administrator or any party entitled *sui juris* or the next friend of any infant or committee of any lunatic person entitled, to apply in the prescribed manner by originating summons for directions in respect of such proposed partition; and the Judge upon such summons shall have all the powers of a Judge on the hearing of an action or summons for partition or for sale in lieu of partition. Partition by representative.

8. The provisions of Sections 5 and 6 hereof shall with the necessary modifications apply to registration under the Real Property Ordinance of any assent by an executor or administrator to any scheme for the division by way of partition among parties entitled of land being under the provisions of such Ordinance. The assent shall in such cases be in the prescribed form. Provision as to land under Real Property Ordinance.

9. The Chief Justice with the concurrence of a Judge of the Supreme Court may frame rules and forms for the carrying into effect of this Ordinance in respect of any applications to be made to or proceedings taken in the said Rules.

Court, whether as a Court of Probate or as a Court of Equity, in pursuance of any of the sections hereof, in the same manner in all respects as Rules of Court may be made and issued by virtue of the Judicature Ordinance, 1879.

Fees charged
and costs.

10. Fees and charges, including the charges of Solicitors of the Supreme Court and costs of proceedings shall in respect of this Ordinance be as prescribed by such rules, if any; and as to the charges of Solicitors, whether in respect of any application made to the Court or of any other charges made for attendance or other work done as such Solicitors in respect of the obtaining of probate and letters of administration and in respect of any other matter or thing done in pursuance hereof.

Savings Bank
deposits.

11. Nothing herein contained shall be deemed in any way to affect the powers of the Governor and the Chief Manager of the Savings Bank under Sections 22 and 23 of Ordinance 21 of 1889, or under Section 6 of the Ordinance 21 of 1896, to pay apply and distribute moneys standing to the credit of a depositor in the Savings Bank to the several classes of persons in such sections respectively specified.

Repeal and
saving clause.

12. The Ordinances Nos. 4 of 1857, 24 of 1845 and 16 of 1860 are hereby repealed.

Save as in this Ordinance is expressly provided the repeals herein enacted shall not affect the validity or invalidity of anything done or suffered, or any right accrued or liability incurred before or any proceedings pending or uncompleted at the commencement of this Ordinance.

Passed in Council this Seventeenth day of December, in the year of Our Lord one thousand nine hundred.

HARRY L. KNAGGS,
Actg. Clerk of the Council.