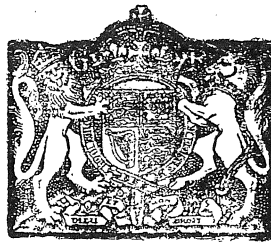


Amended by Ord 2/49



TRINIDAD AND TOBAGO.

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[L.S.]

I ASSENT,

B. E. H. CLIFFORD,

*Governor.*

5th March, 1943.

AN ORDINANCE to amend the Petty Civil Courts  
Ordinance, Ch. 3. No. 3.

(On Proclamation.)

Commencement.

ENACTED by the Governor of Trinidad and Tobago  
with the advice and consent of the Legislative Council  
thereof.

1. This Ordinance may be cited as the Petty Civil  
Courts (Amendment) Ordinance, 1943, and shall be read Short title, &c.  
and construed as one with the Petty Civil Courts Ordinance, Ch. 3. No. 3.  
hereinafter referred to as the Principal Ordinance, and  
shall come into force on a date to be fixed by the Governor  
by proclamation.

Section 2 of  
the Principal  
Ordinance  
amended.

**2.** Section 2 of the Principal Ordinance is hereby amended by inserting the following definitions in their appropriate alphabetical positions in the section:—

“ “ hereditament ” includes both a corporeal and an incorporeal hereditament, and a building shall be within the definition notwithstanding that it is moveable property ;

“ land ” includes, messuages, tenements and hereditaments of any tenure, and a building shall be within the definition notwithstanding that it is moveable property ;

“ landlord ” in relation to any land, means the person entitled to the immediate reversion of that land or, if the property therein is held in joint tenancy, any of the persons entitled to the immediate reversion.”

Sections 10, 11  
and 12 of the  
Principal  
Ordinance  
repealed and  
replaced.

**3.** Sections 10, 11 and 12 of the Principal Ordinance are hereby repealed and replaced by the following sections:—

“ General  
jurisdiction.

10. (1) A Court shall have jurisdiction to hear and determine any action founded on contract or on tort where the debt, demand or damage claimed is not more than two hundred and forty dollars, whether on balance of account or otherwise.

(2) A Court shall have jurisdiction to hear and determine any action where the debt or demand claimed consists of a balance not exceeding two hundred and forty dollars after a set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, being a set-off admitted by the plaintiff in the particulars of his claim or demand.

(3) A Court shall have jurisdiction to hear and determine any action for the recovery of any penalty, expenses, contribution or other like demand which is recoverable by virtue of any enactment for the time being in force, if—

(a) it is not expressly provided by that or any other enactment that the demand shall be recoverable only in some other court ; and

(b) the amount claimed in the action does not exceed two hundred and forty dollars :

Provided that for the purposes of this section the expression "penalty" shall not include a fine to which any person is liable on conviction on indictment or on summary conviction.

(4) In any enactment relating to the jurisdiction of the Court or of a Magistrate in the exercise of his civil jurisdiction, where the limit of the amount specified in respect of any matter within the jurisdiction and discretion of the Court or Magistrate is less than two hundred and forty dollars, such amount shall be increased to two hundred and forty dollars, and the Court or Magistrate shall have and exercise jurisdiction accordingly.

Abandonment  
of part of  
claim to give  
Court  
jurisdiction.

11. (1) Where a plaintiff has a cause of action for more than two hundred and forty dollars in which, if it were not for more than two hundred and forty dollars, a Court would have jurisdiction, the plaintiff may abandon the excess, and thereupon a Court shall have jurisdiction to hear and determine the action, so however that the plaintiff shall not recover in the action an amount exceeding two hundred and forty dollars.

(2) Where a Court has jurisdiction to hear and determine an action by virtue of this section, the judgment of the Court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly.

Jurisdiction  
in actions for  
the recovery  
of land.

12. (1) A Court shall have jurisdiction to hear and determine any action for the recovery of land (whether or not the relation of landlord and tenant exists or has existed between the parties) where neither the value of the land in

question nor the rent (if any) payable in respect thereof exceeds the sum of two hundred and forty dollars by the year.

(2) This section shall be without prejudice to any jurisdiction which would have been possessed by any court if this section had not been passed.

(3) This section shall have effect subject to any law from time to time in force for regulating rentals.

Lessee to  
give notice  
of summons  
for recovery  
of land.

12A. (1) Every lessee to whom there is delivered any summons issued from a Court for the recovery of land demised to or held by him, or to whose knowledge any such summons comes, shall forthwith give notice thereof to his lessor or his bailiff or receiver, and if he fails so to do he shall be liable to forfeit to the person of whom he holds the land an amount equal to the value of three years improved or rack rent of the land, to be recovered by action in any court having jurisdiction in respect of claims for such an amount.

(2) In this section "lessee" includes under-lessee and any other tenant.

Transfer of  
actions for  
the recovery  
of land to the  
Supreme  
Court.

12B. (1) Where an action for the recovery of land is commenced in a Court, the defendant or his landlord may, within such time as may be prescribed by rules made under this Ordinance, apply to a Judge of the Supreme Court at Chambers for a summons to the plaintiff to show cause why the action should not be transferred to the Supreme Court on the ground that the title to land of greater annual value than two hundred and forty dollars would be affected by the decision in the action or that some important question of law or fact is likely to arise.

(2) On the hearing of any such summons, the Judge of the Supreme Court, if satisfied that such a title as aforesaid would be so affected or that some important question of law or fact is likely to arise as aforesaid, may order that the action be transferred to the Supreme Court.

(3) Where, in an action for the recovery of land commenced in a Court, no application is made to the Supreme Court in accordance with this section, or where such an application is made but no order is made for the transfer of the action, the Court shall have jurisdiction to hear and determine the action notwithstanding the provisions of this Ordinance relating to actions in which the title to hereditaments comes in question.

(4) When an action is transferred from a Court to the Supreme Court in accordance with this section, the costs of the whole proceedings both before and after the transfer shall be in the discretion of the Supreme Court.

Jurisdiction where title in question.

12C. A Court shall have jurisdiction to hear and determine any action in which the title to any hereditament comes in question, being an action which would otherwise be within the jurisdiction of the Court—

(a) in the case of an easement or licence, if neither the value nor the rent (if any) of the hereditament in respect of which the easement or licence is claimed, exceeds the sum of two hundred and forty dollars by the year; or

(b) in any other case, if neither the value of the hereditament in question nor the rent (if any) payable in respect thereof exceeds the sum of two hundred and forty dollars by the year.

Execution of warrants of possession.

12D. For the purpose of executing a warrant to give possession of any premises, it shall not be necessary to remove any goods or chattels from those premises.

Limitation on the jurisdiction of the Courts.

12E. (1) Save as expressly provided in this Ordinance, a Court shall not have jurisdiction to hear and determine any action for the recovery of land, or any action in which the title to any hereditament or any toll, fair market or franchise is in question.

(2) Notwithstanding the preceding provisions of this Ordinance, a Court shall not have jurisdiction—

- (a) to grant any equitable relief or remedy or any judgment or order in the nature of a mandamus or injunction;
- (b) to hear and determine any action for libel, slander, slander of title, seduction, breach of promise of marriage, infringement of a patent or merchandise mark or copyright, malicious prosecution, false imprisonment, or breach of a statutory duty or any action or proceeding by way of replevin or any action in which the validity of any devise, bequest or limitation under any will or settlement may be disputed, or any action in which the validity or legality of anything done in the execution or discharge of any public office or employment, or any liability or alleged liability arising from the holding of any such office or employment, is in dispute.

(3) If it shall be made to appear in the course of any action or proceeding that such action or proceeding or any claim therein is not within the jurisdiction of the Court, the Court shall order such action, proceeding or claim, as the case may be, to be struck out with or without costs as to the Judge shall seem just."

Section 22 of the Principal Ordinance repealed and replaced.

4. Section 22 of the Principal Ordinance is hereby repealed and replaced by the following section:—

"Joinder of causes of action.

22. (1) Subject to the provisions of this Ordinance and the rules thereunder, the plaintiff may unite in the same action several causes of action and—

- (a) claims by or against husband and wife may be joined with claims by or against either of them separately; and

(b) claims by or against an executor or administrator as such may be joined with claims by or against him personally, if they are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator; and

(c) claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

(2) Except by leave of the Court—

(a) claims by a trustee in bankruptcy as such shall not be joined with any claim by him in any other capacity; and

(b) no cause of action shall be joined with an action for the recovery of land except claims for mesne profits or arrears of rent or double value of the land claimed or any part thereof or for damages for breach of any contract under which it is held or for any wrong or injury to it, or for payment of any principal money or interest secured by a mortgage or charge.

(3) If, at any time, it appears to a Judge that any causes of action united in one action cannot be conveniently tried and disposed of together, he may order separate trials, or may exclude any cause of action and order any consequential amendments to be made and may make such order as to costs as may be just.”

5. Section 23 of the Principal Ordinance is hereby repealed and replaced by the following section:—

“ Division of causes of action.

23. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in one or more Courts.”

Section 23 of the Principal Ordinance repealed and replaced.

Section 33 of  
the Principal  
Ordinance  
repealed and  
replaced.

6. Section 33 of the Principal Ordinance is hereby repealed and replaced by the following section :—

“Certiorari.  
Ch. 3. No. 1.

33. (1) Without prejudice to the provisions of section 34 of the Judicature Ordinance, the Supreme Court or a Judge thereof may order the removal to the Supreme Court, by writ of certiorari or otherwise, of any proceedings commenced in a Court, other than proceedings in any such action as is referred to in section 10 being an action in which the sum claimed is forty-eight dollars or less.

(2) When any proceedings are removed into the Supreme Court under this section, the costs of the whole proceedings both before and after removal shall be in the discretion of the Supreme Court.

(3) Any such removal shall be upon such terms as to payment of costs, giving security or otherwise as the Supreme Court or a Judge thereof thinks fit to impose.”

Section 35 of  
the Principal  
Ordinance  
repealed and  
replaced.

7. Section 35 of the Principal Ordinance is hereby repealed and replaced by the following section :—

“Appeals.  
Ch. 3. No. 1.

35. (1) Without prejudice to section 34 of the Judicature Ordinance, there shall be a right of appeal to the Full Court from any judgment or order in any action under this Ordinance, not being any action referred to in section 10 in which the sum claimed is forty-eight dollars or less.

(2) In any case in which an appeal lies under this section, the Judge shall make a note—

(a) of any question of law raised at the hearing ; and

(b) of the evidence given ; and

(c) of his decision thereon and of his determination of the proceedings.

(3) The rules of practice and procedure governing appeals to the Full Court in civil matters shall apply to appeals under this section.

(4) Upon notice of appeal being filed, the Registrar of the Supreme Court shall notify the Judge of the Petty Civil Court, and the Judge shall forthwith send to the Registrar of the Supreme Court a copy of the record of the proceedings.

8. Section 52 of the Principal Ordinance is hereby amended by deleting the words "other than an action for damages for trespass to land" and the commas immediately before and after those words.

Section 52 of the Principal Ordinance amended.

9. Section 55 of the Principal Ordinance is hereby repealed and replaced by the following section :—

Section 55 of the Principal Ordinance repealed and replaced.

"Rules.

~~55. The Judge of the Port of Spain Court may make rules for giving effect generally or specially to the purposes of this Ordinance, and for conferring any appropriate powers ancillary to the exercise of any jurisdiction conferred by this Ordinance, and for regulating the exercise of any such jurisdiction and ancillary powers, and for prescribing generally or specially the practice and procedure of the Courts, including the forms of summonses, notices, particulars and other process, and the duties of the officers of the Courts, and the fees to be taken therein, and the costs to be allowed in respect of proceedings in the Courts."~~

Rules may be made in like manner as rules may be made under and for the purposes of the Judicature Ordinance

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10. Section 56 of the Principal Ordinance is hereby repealed and replaced by the following section :—

Section 56 of the Principal Ordinance repealed and replaced.

"Approval and confirmation of rules.

~~56. Rules made under the provisions of the last preceding section shall not have any force or effect until they have been approved by the Governor in Council and confirmed by resolution of the Legislative Council."~~

Repealed by sec 14 of Ord 2/49

Saving of  
existing rules.

11. All rules in force under the Principal Ordinance at the commencement of this Ordinance shall remain in force and be liable to be amended or rescinded as though they had been made, approved and confirmed under the Principal Ordinance as amended by this Ordinance.

Passed in Council this twenty-sixth day of February, in the year of Our Lord one thousand nine hundred and forty-three.

W. J. BOOS,  
*Clerk of the Council.*

1943.

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