

CHAPTER 28. No. 2.

REGISTRATION OF DEEDS.

Ordinances

Cap. 174—

1925.

No. 3—1933.

,, 16—1937.

,, 19—1939,

ss. 10

and 14.

Commencement.

AN ORDINANCE RELATING TO THE EXECUTION, REGISTRATION, AND ADMISSION IN EVIDENCE OF DEEDS, AND TO PROVIDE FOR THE PROTECTION OF PURCHASERS AND MORTGAGEES.

[1st January, 1885.]

Short title.

1. This Ordinance may be cited as the Registration of Deeds Ordinance.

Interpreta-
tion.

2. (1) In the application of any rule or principle of the Common or Statute Law of England, the expression "Deed" shall be substituted for any expression in such rule or principle importing a bond, obligation, contract, instrument, or writing under seal.

(2) In this Ordinance—

"British Minister or Consul" includes any Chargé d'affaires, Consul-General, or Vice-Consul;

"lands" includes messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein;

"Mayor of any city, town, or borough in Great Britain or Ireland" includes the Chief Magistrate and the Deputy Mayor of any city, town, or borough in the United Kingdom of Great Britain and Ireland, or in any British Colony, Possession, or Dependency, and any Magistrate acting in the name and on the behalf of any such Mayor or Chief Magistrate;

"qualified functionary" means a Judge of the Supreme Court, a Justice, a barrister, a conveyancer, or the Registrar of the Supreme Court;

“registered” means registered in the office of the Registrar General.

Execution and registration of deeds.

3. Every deed executed in the Colony or elsewhere, in the presence of and attested by one witness at least not being a party thereto, shall be held and taken in law to be a specialty, and shall otherwise as a deed be valid and effectual for all purposes: Provided that nothing in this section shall give an unregistered deed any effect or operation which by law is dependent on registration.

Unregistered deeds.

4. Any deed, although the same shall not be required by law to be registered, may at the option of any party to such deed be registered under this Ordinance.

All deeds may be registered.

5. No deed shall be registered unless the same shall be in the English language, and unless the execution thereof by every person who shall have executed the same shall be proved upon the oath or solemn declaration of one of the witnesses attesting such execution.

Conditions of registration.

6. As to the personal acts required for the execution of a deed in the Colony, it is hereby declared that it is and always has been necessary and sufficient that the person executing do sign and as his act and deed deliver the deed.

Requirements for due execution.

This section does not apply to the execution of a deed by a corporation.

7. (1) Any deed may be registered—

(a) if the execution thereof by every party who, in the Colony, executes the same is made and attested as follows; that is to say, the deed must be executed in the presence of one witness at least not being a party thereto and of a qualified functionary, and the signing and delivery thereof must be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation, or condition in life, and by the qualified functionary subscribing his name with the addition of his qualification under this section; and

Registration of deed executed in or partly in the Colony.

(b) if the execution thereof by every party who, out of the Colony, executes the same is made and attested according to this Ordinance.

(2) A qualified functionary shall not subscribe a deed under this section unless it bears the signature of some barrister or certificated conveyancer as having prepared such deed.

Registration of deed executed out of or partly out of the Colony.

8. Any deed may be registered—

(a) if the execution thereof by every person who, out of the Colony, executes the same is made and attested as follows; that is to say, the deed must be executed in the presence of one witness at least, not being a party thereto, and the signing and delivery thereof must be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation, or condition in life; and

(b) if the execution thereof by every person who, in the Colony, executes the same is made and attested according to the provisions of this Ordinance in that behalf.

Registration of bonds, etc., given to the Crown.

9. Any deed under which any person, with or without a surety or sureties, becomes accountable to the Crown or responsible to the Crown for the due discharge of any duties, may be registered if the execution thereof by every person who, in the Colony or elsewhere, executes the same is made and attested as follows; that is to say, the deed must be executed in the presence of one witness at least not being a party thereto, and the signing and delivery thereof must be attested by one such witness at least subscribing his name, with the addition of his place of abode or business and his profession, occupation, or condition in life.

In case of deeds executed out of Colony, before whom affidavit may be made.

10. (1) In all cases in which any deed shall have been executed by any person out of the Colony, the oath or solemn declaration of the witness proving such execution may be made before a Notary Public, or before any Judge of a Court of Record, or the Mayor of any city, town, or borough in Great Britain or Ireland, or in any British Colony, Possession, or Dependency, or if the same shall have been executed in any of the United States of America before any British Minister or Consul residing in such country or any Judge of a Court of Record or the

Mayor or other Chief Magistrate of any place in such State, or any Notary Public, or if the same shall have been executed in any other foreign country before any British Minister or Consul or Notary Public residing in such country; or such oath or solemn declaration may in any of the cases aforesaid be made before any Judge of the Supreme Court, or before the Registrar General.

Ord. 16-1937.

(2) The making of any such oath or solemn declaration, where the same shall be made by any person in any place out of the Colony, shall be certified under the hand and seal, if any, of the Notary, Judge, Mayor or other Chief Magistrate, Minister or Consul before whom the same shall be made.

11. In all cases in which a deed is executed by any person within the Colony, the affidavit or solemn declaration of the witness proving such execution may be made before a Judge of the Supreme Court, or before the Registrar General, or a Commissioner of Affidavits, or before any Justice by whom as a qualified functionary the signing and delivery of the deed is attested. The affidavit or declaration may be in the form A in the Schedule hereto, and may be endorsed upon, or written at the foot or in the margin of, the deed, or may be separate and refer to the deed as an exhibit.

In case of deeds executed in the Colony, before whom affidavit may be made.

Form A.
Schedule.

12. All adjudications of bankruptcy made by the Supreme Court, and all adjudications or orders made by any competent Court in Great Britain or Ireland and intended to affect any lands in the Colony belonging to any bankrupt, and all copies of orders to be made by the Supreme Court under the Trustee Ordinance, and which copies are by the said Ordinance required to be registered, shall be registered with deeds, and shall be indexed in the index of deeds under the letter of the alphabet corresponding with the initial letter of the surname of every such bankrupt, and of every trustee to be named in any such order, with the christian name and surname at full length of every such bankrupt or trustee.

Bankruptcy and Trustee orders.

13. The Registrar General shall number every deed which shall be registered in each year with a distinguishing number according to the order of time in which such deed shall be registered, beginning with the number one and proceeding in a regular numerical series, and shall, at the time when any

Registrar to number deed and annex certificate.

Form B.

such deed shall be delivered to him, endorse upon or annex to such deed a certificate, according to the form B in the Schedule hereto, under his hand, stating the day and time when such deed shall have been delivered to him for registration, the number of pages on which such deed shall be written, and the distinguishing number under which such deed shall be registered.

Deeds to be bound.

14. All deeds registered in each year shall, as soon as conveniently may be, be bound up in convenient volumes marked on the back thereof with the year in which the same shall be registered, and numbered in regular series according to the order of such volumes.

Where deed cannot be bound, a copy to be bound.

15. Where any deed, by reason of its form, or of the material on which the same is written or engrossed, cannot conveniently be so bound up, the Registrar General shall cause a true and correct transcript of the same, certified under his hand, to be inserted in lieu thereof in the proper volume, and in its proper order according to its distinguishing number, and shall retain and keep in his custody the original deed whereof such transcript shall be so made.

Priority of deeds and protection of purchasers and mortgagees.

Priority of deeds according to time of registration.

16. (1) Every deed whereby any lands in the Colony may be in any way affected at law or in equity shall be registered under this Ordinance, and every such deed duly registered shall be good and effectual both at law and in equity, according to the priority of time of registering such deed, according to the right, title, and interest of the person conveying such lands against every other deed, conveyance, or disposition of the same lands or any part thereof, and against all creditors by judgment of the same person so conveying such land.

Registration is not meant to be obligatory but rather a matter of priority see s. 10

Unregistered deeds.
Ord. 19-1939,
s. 10.

(2) Every such deed that shall not be duly registered shall be adjudged fraudulent and void as to the lands affected by such deed against any subsequent purchaser for value or mortgagee without notice of the same lands or any part thereof, whose conveyance shall be first registered.

Marriage settlements.

17. All settlements and articles for a settlement which may be made in consideration of any marriage, and which shall be

registered under this Ordinance, shall take effect according to the priority of time of registering the same, notwithstanding that such settlement or articles shall not have been registered before the celebration of such marriage.

18. (1) Every deed of gift and every settlement executed after the 29th of March, 1933, shall be registered within a period of twelve months from the date of the execution thereof: Provided that any such deed of gift or settlement may be registered after the said period of twelve months upon payment to the Registrar General of a sum equal to five times the amount of the fees which would have been chargeable for registration if the deed of gift or settlement had been registered within the said period, together with such further penalty not exceeding the sum of two hundred and forty dollars as the Governor may think proper to impose.

Deeds of gift and settlements to be registered within limited time.

Ord. 3-1933, ss. 3 and 4. " 19-1939, s. 14.

not registered by the 1939 case.

(2) No deed of gift or settlement, until registered in manner hereinbefore prescribed, shall be effectual to pass any estate or interest in any land sought to be affected thereby, or to render such land liable as security for the payment of money.

Deeds of gift or settlements effectual only on registration.

(3) For the purposes of this section—

“deed of gift” means any deed, or any instrument under the provisions of the Real Property Ordinance, whereby any real property is transferred from one person to another gratuitously;

“settlement” means any deed, or any instrument under the provisions of the Real Property Ordinance, or any number of such deeds or instruments, whether for value or not, under or by virtue of which any lands of any tenure or any estates or interests in any such lands stand limited to or in trust for any persons, by way of succession, including any such deeds or instruments affecting the estate of any one or more of such persons exclusively.

Definition. *does not mean a settlement of land under the R.P.O. is to be registered under the R.O.D. order.*

Production of deeds in evidence.

19. Every deed or other document duly registered under this Ordinance, or a copy thereof certified under the hand of the Registrar General or of his Deputy, shall be admissible

Evidence. Cap. 174—1925, s. 18.

in evidence without any further proof of the execution or registration of the same.

Powers of
Attorney.

Cap. 174—
1925, s. 19.

20. No power of attorney shall be admitted in evidence in any suit, action, or other proceeding unless the same shall be executed and registered in the manner directed by this Ordinance for the execution and registration of deeds.

SCHEDULE.

(Section 11.)

FORM A.

I (*A. B.*) of _____ make oath and say [*or do solemnly affirm and declare*] that I was personally present on the _____ day of _____, 19____, at _____ [*place*] and did then and there see *C. D.* one of the parties [*or C. D. and G. H.* _____ parties] to the within written Deed [*or to the Deed now produced and shown to me and marked _____*] purporting to be a Deed Poll [*or a Deed of _____ parts*] and made by [*or between*] [*name the parties to the deed*] sign and deliver the same as and for his [*her or their*] Deed; and that the signature [*or signatures* _____] thereto subscribed is [*or are*] of the proper handwriting of the said *C. D.* [*or C. D. and G. H.*] and that the signatures "*A. B.*" and "*I. J.*" to the said Deed subscribed as of the witnesses to the execution of the same by the said *C. D.* [*or C. D. and G. H.*] are of the proper handwriting of me this deponent [*or declarant*], and of the said *I. J.*

Sworn [*or declared*] at _____ (in the Town of _____) this _____ day of _____, 19____.

Before me,

E. F.,

Commissioner of Affidavits
[*or as the case may be*].

Where the Deed is made an exhibit a Memorandum of identity must be endorsed upon or written at the foot or in the margin of such Deed, which Memorandum may be as follows:—

This is the Deed marked _____ referred to in the Affidavit [*or solemn declaration*] of *A. B.* sworn [*or declared*] before me this _____ day of _____, 19____.

Commissioner of Affidavits
[*or as the case may be*].

(Section 13.)

FORM B.

I (*A. B.*), Registrar General of the Colony of Trinidad and Tobago, do hereby certify that the within written [*or annexed*] Deed dated the _____ day of _____, in the year of our Lord, 19____, and expressed to be made by [*or between as the case may be*] *C. D.* [*or C. D. of the one part, and G. H. of the other part*] was delivered to me by _____ of _____ for registration on [*day of the week*] the _____ day of _____ in the year one thousand nine hundred and _____ at _____ o'clock in the _____ noon; and that the said Deed is registered under No. _____ of the year one thousand nine hundred and _____ and that the number of pages on which the said Deed is written is _____.

Dated at Port-of-Spain, this _____ day of _____ in the year one thousand nine hundred and _____.

(Signed) *A. B.*,
Registrar General.