

S.I. No. 155/2010 — Circuit Court Rules (Land and Conveyancing Law Reform Act 2009) 2010.

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2010 155

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 27th April, 2010.

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936 , and section 12 of the Courts of Justice Act 1947 , by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924 and section 70 of the Courts of Justice Act 1936 , (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961) and section 27 of the Courts (Supplemental Provisions) Act 1961 , and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the annexed Rules of Court.

Dated this 8th day of December 2009.

(Signed): Matthew Deery

(Chairman of the Circuit Court Rules Committee)

Alison Lindsay

Tony Hunt

Joe Deane

Ronan Boylan

I concur in the making of the above Rules of Court.

Dated this 15th day of April 2010.

Signed: DERMOT AHERN,

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM.

CIRCUIT COURT RULES (LAND AND CONVEYANCING LAW REFORM ACT 2009)
2010

1. These Rules, which may be cited as the Circuit Court Rules (Land and Conveyancing Law Reform Act 2009) 2010, shall come into operation on the 13th day of May 2010.

2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2010.

3. The Circuit Court Rules are amended:

(i) by the substitution for the definition of “Equity Suit” and “Equity Proceeding” in the Interpretation of Terms provisions of the following definition:

“ “Equity Suit” and “Equity Proceeding” includes:

(a) any proceedings mentioned in the Third Schedule of the Courts (Supplemental Provisions) Act 1961 at reference numbers 17 to 23 inclusive, 24 (so far as it relates to proceedings for the care of minors’ estates) and 25 to 28 inclusive, and

(b) so far as not mentioned at paragraph (a) or otherwise provided for in these Rules, any proceedings mentioned in section 33 of the County Officers and Courts (Ireland) Act 1877;”;

(ii) by the substitution for paragraph (xxiv) of rule 1 of Order 18 of the following paragraph:

“(xxiv) An order to vacate a *lis pendens* on an application under section 123 of the Land and Conveyancing Law Reform Act 2009 .”;

(iii) by the substitution for rule 2 of Order 43 of the following rule:

“2. Where a sale, mortgage, partition or exchange is ordered, or an order is made under section 31 or section 94 of the Land and Conveyancing Law Reform Act 2009 , the Court, in addition to the powers already existing, may authorise effect to be given to its order:

(a) by laying proposals before the Court for its sanction; or

(b) by proceedings out of Court, and any moneys produced thereby shall be paid into Court, or to trustees, or otherwise dealt with as the Court orders;

provided always that the Judge shall not authorise a sale out of Court unless and until he is satisfied that all persons interested in the land are before the Court, or are bound by the order.”;

(iv) by the substitution for the title and rule 1 of Order 46 of the following title and rule:

“ORDER 46

PROCEEDINGS BY EQUITY CIVIL BILL

“1. The following proceedings shall be commenced by issuing an Equity Civil Bill in accordance with Form 2B of the Schedule of Forms, entitled in the matter of the Act under which the proceeding is taken and, where relevant, of the trust or settlement, as the case may be:

(a) proceedings under section 33(i) or (k) of the County Officers and Courts (Ireland) Act 1877,

(b) proceedings under the Trustee Acts (other than for payment into Court by trustees),

(c) any other proceedings required or permitted by these Rules to be commenced by Equity Civil Bill.”;

(v) by the insertion immediately following Order 46 of the following Order:

“Order 46A

Land and Conveyancing Law Reform Act 2009

1. In this Order:

“the Act” means the Land and Conveyancing Law Reform Act 2009 and any reference in this Order to a section shall, unless the context otherwise requires, be deemed to be a reference to a section of the Act;

2. (1) Proceedings for the following reliefs under the Act shall be commenced by Equity Civil Bill in accordance with Order 46:

(a) an order to resolve a dispute mentioned in section 22;

(b) an order to approve an arrangement specified in an application under section 24;

(c) an order under section 31;

(d) an order under section 50(1);

(e) an order under section 68.

(2) The following proceedings under the Act may be commenced by Ordinary Civil Bill in accordance with Order 1, rule 2:

(a) an action for damages in accordance with section 18(6);

(b) an action in which an order is sought under section 35(2);

(c) an action for damages in accordance with section 60(2);

(d) an application for damages in accordance with section 84(8);

(e) proceedings in which a remedy in damages is sought in accordance with section 105(2).

(3) Applications for the following reliefs under the Act shall be brought by motion on notice in the proceedings before the Court to which the application relates, grounded upon an affidavit sworn by or on behalf of the moving party:

(a) an order under section 98, where the Court is already seised of an application or proceedings relating to the mortgaged property;

(b) an order under section 112(3)(d) in an action relating to the mortgaged land.

(vi) by the substitution for sub-rule (33) of rule 4 of Order 59 of the following rule:

“33. The plaintiff in proceedings wherein it is sought to have a conveyance declared void pursuant to the provisions of section 3 of the Family Home Protection Act 1976 (as amended by section 54 of the Family Law Act 1995) (which said proceedings shall be instituted by way of Equity Civil Bill seeking declaratory relief) shall forthwith and without delay following the institution of such proceedings cause relevant particulars of the proceedings to be entered as a *lis pendens* upon the property and/or premises in question under and in accordance with section 121 of the Land and Conveyancing Law Reform Act 2009 .”, and

(vii) by the substitution for rule 27 of Order 66 of the following rule:

“27. For the purpose of the taxation or measurement of costs, any proceedings mentioned in the Third Schedule of the Courts (Supplemental Provisions) Act 1961 at reference numbers 17 to 28 inclusive shall be deemed to be Equity proceedings.”

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation.)

These rules effect various amendments to the Circuit Court Rules, including the insertion of a new Order 46A, to facilitate the operation of the Land and Conveyancing Law Reform Act 2009 .