
CHAPTER 393**QUIETING TITLES, 1959****ARRANGEMENT OF SECTIONS**

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CHAPTER 393

QUIETING TITLES, 1959

An Act to make provision for quieting titles to land within The Bahamas.

28 of 1959
45 of 1961
46 of 1964
S.I. 189/1965

[Assent 13th July, 1959]

[Commencement 1st November, 1959]

1. This Act may be cited as the Quieting Titles Act, 1959. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
 - “attorney” means a counsel and attorney for the time being authorised to practice as a counsel and attorney of the Supreme Court;
 - “court” means the Supreme Court;
 - “Limitation Act” means the Limitation Act and any Acts passed in amendment thereof or in substitution therefor; *45 of 1961, s. 2.*
Ch. 83.
 - “recorded” means recorded under the provisions of the Registration of Records Act; Ch. 187.
 - “rules” means the rules made under this Act;
 - “Schedule” means the Schedule to this Act.
3. Any person who claims to have any estate or interest in land may apply to the court to have his title to such land investigated and the nature and extent thereof determined and declared in a certificate of title to be granted by the court in accordance with the provisions of this Act. Investigation of title by court.
4. Every application made under the provisions of section 3 of this Act shall be by petition in Form 1 of the Schedule and unless the court dispenses therewith either in whole or in part shall be supported by — Form of application and how supported. Form 1. Schedule.
 - (a) the title deeds and other evidences of title in the possession or power of the petitioner; Title deeds.
 - (b) certified copies of all recorded documents the originals of which are not in the possession or power of the petitioner; Recorded instruments.

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| Abstract of title. | (c) an abstract of title signed by an attorney; |
| Statement of facts. | (d) a concise statement signed by the petitioner or his attorney of such facts as are necessary to make out the title and which do not appear in the documents produced; |
| Proof of facts. | (e) proof of any fact which is required to be proved in order to make out the title, and which is not established by the produced documents; |
| Affidavit accompanying the petition. Affidavits as to possession. Ch. 83. | (f) an affidavit made in accordance with the provisions of section 5 of this Act; |
| | (g) at least two affidavits as to possession in the case of a petitioner relying on possession under the Limitation Act; |
| Plan. | (h) a plan of the land prepared from a survey thereof. |

What the affidavit accompanying the petition must state.
45 of 1961, s. 3.

5. The affidavit in support of the petition shall confirm all the facts set out in the petition and shall be made by the petitioner or may, with leave of the court, be made by some person other than the petitioner or as to part by one person and as to part by another and shall in addition set out whether any person is in possession of the land and under what claim, right or title, and shall state that to the best of the deponent's knowledge, information and belief, the affidavit and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the title or any part thereof or give any rights as against him.

Court to order notice to be published.

6. (1) Upon the filing of an application under section 3 of this Act the court shall direct a notice thereof to be published in one or more newspapers within or without The Bahamas or both within and without The Bahamas as the court may think fit. Such notice shall be in such form and shall contain such particulars as shall be prescribed by the rules and shall state the time within which any adverse claims must be filed.

When application heard.

(2) No application under this Act shall be heard until after the expiration of the time fixed in the notice referred to in subsection (1) of this section for the filing of adverse claims.

7. (1) Where it appears that there is or may be any person, known or unknown, who may have dower or a right to dower or a claim adverse to or inconsistent with that of the petitioner in to or in respect of the whole or any part of the land mentioned in the petition, the court shall direct a notice to be sent by registered post to or to be served personally on that person, his attorney or agent or to be published in such newspaper or newspapers published either within or without The Bahamas, or both, or to be served in such manner as the court may in any particular case decide. Such notice shall be in such form and shall contain such particulars as shall be prescribed by the rules and shall state the time within which any adverse claims must be filed.

Notice to adverse claimant.

(2) Any person having dower or a right to dower or an adverse claim or a claim not recognised in the petition shall before the expiration of the times fixed respectively in the notices referred to in subsection (1) of section 6 of this Act or subsection (1) of this section for the filing of adverse claims, file and serve on the petitioner, or his attorney, a statement of his claim in Form 3 of the Schedule, verified by an affidavit to be filed therewith. The failure of any such person to file and serve a statement of his claim within the time fixed by the respective notices aforesaid shall operate as a bar to so such claim.

Adverse claimants to file statements.

Schedule, Form 3.

8. (1) The court in investigating the title may receive and act upon any evidence that is received by the court on a question of title, or any other evidence, whether the evidence is or is not admissible in law, if the evidence satisfies the court of the truth of the facts intended to be established thereby.

On what evidence court may proceed.
S.I. 189 of 1965.

(2) It shall not be necessary to require a title to be deduced for a longer period than is mentioned in subsection (4) of section 3 of the Conveyancing and Law of Property Act or to produce any evidence which by the Conveyancing and Law of Property Act is dispensed with as between vendor and purchaser, or to produce or account for the originals of any recorded deeds, documents or instruments, unless the court otherwise directs.

Ch. 138.

(3) The evidence may be by affidavit or orally or in any other manner or form satisfactory to the court.

Evidence.

Further proof if court not satisfied.

9. If after hearing and examining the evidence produced by a petitioner in the first instance in support of the application the court is not satisfied therewith, and it is made to appear to the court that there is a reasonable likelihood that further evidence may be forthcoming, then the court may, if it thinks fit, allow the petitioner a reasonable time in which to produce such further evidence and may adjourn the application for such purpose.

Procedure on adverse claim being made.

10. If a claim be made under subsection (2) of section 7 of this Act, the court may either decide the question of title on the evidence before it, or may direct the production of such further evidence as it may deem expedient.

Security for costs.

11. The court may at any stage of the proceedings order security for costs to be given by the petitioner or by any person making an adverse claim.

Payment of costs.

12. The court may order costs to be paid by or to any party to any proceedings.

Withdrawal of application.

13. The petitioner may by leave of the court withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, both by himself and by an adverse claimant.

Petition may be referred to referee.

14. (1) The court may refer a petition or any question arising in the course of any proceedings thereon to a referee to be appointed by it and upon such reference being made the referee shall have all the powers of the court except the power to grant the certificate of title for which purpose he shall remit the matter to the court.

(2) The report of a referee may be adopted wholly or partially by the court.

Certificates of title presumed to be made subject to certain exceptions.

15. Every certificate of title under this Act shall be presumed to be subject to the following exceptions and qualifications —

- (a) the reservations, if any, contained in the original grant from the Crown;
- (b) any encumbrance which has been recorded in respect of the land and which is valid and subsisting at the date of the certificate of title;
- (c) any public highway or right of way, watercourse, right to light and other easements;
- (d) the right of the wife, if any, of the petitioner to dower.

45 of 1961, s. 4.

16. Without limiting the generality of the provisions of section 3 of this Act, the court shall have power to declare by a certificate of title in the form prescribed by section 18 of this Act that the petitioner is the legal and beneficial owner in fee simple of the land mentioned in the petition in any of the following circumstances —

Court has power to declare that petitioner is owner in fee simple in certain cases.

- (a) where the petitioner has proved a good title in fee simple to a share in land and has proved such possession as, under the Limitation Act, would extinguish the claim of any other person in or to such land;
- (b) where the petitioner has proved such possession of land as, under the Limitation Act, would extinguish the claim of any other person in or to such land;
- (c) where the petitioner has proved that he is the equitable owner in fee simple of land and is entitled at the date of the petition to have the legal estate conveyed to him.

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17. (1) After the court has completed the hearing of an application made under section 3 of this Act it may —

Court may dismiss application or give one certificate or several.

- (a) dismiss the application;
- (b) dismiss the application and grant a certificate of title in the form prescribed by section 18 of this Act to any person who shall have filed an adverse claim in accordance with the provisions of section 7 of this Act;
- (c) grant a certificate of title in the form prescribed by section 18 of this Act to the petitioner;
- (d) grant separate certificates of title in the form prescribed by section 18 of this Act to the petitioner and to any person who shall have filed an adverse claim in accordance with the provisions of section 7 of this Act in respect of the whole or separate parts of the land described in the petition. (2) The court may give one certificate of title comprising all the land described in the petition, or may give separate certificates of title as to separate parts of the land.

Form of
certificate.
45 of 1961, s. 5.
Schedule, Form
4.

18. (1) The certificate of title shall be substantially in the form of Form 4 of the Schedule, and may, where necessary, have a schedule thereto and a plan annexed thereto, and shall be under the seal of the court, and shall be signed by a judge thereof, and the certificate, the schedule and plan, if any, shall be recorded without any further proof thereof.

(2) A separate index of certificates of title shall be kept by the Registrar General in a book in which the certificates of title shall be numbered in order and in which shall be entered the names of the petitioners and of any adverse claimants, and short particulars of the land which is the subject-matter of the petition and of adverse claims, and any other particulars which may be deemed to be desirable.

Effect of
certificate of title.
45 of 1961, s. 6.

19. Subject to the provisions of section 27 of this Act and notwithstanding the provisions of any other Act or law, on and from the date of the certificate of title the same shall be —

- (a) conclusive as to the accuracy of the contents thereof (including any schedule thereto and any plan annexed thereto) and binding on the Crown and all persons whomsoever; and
- (b) conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given, taken or done before the granting of the certificate of title, have been properly, duly and sufficiently, made, given, taken and done.

Certified copy of
certificate of title
to be evidence.

45 of 1967, s. 7.

20. After a certificate of title is recorded, a copy thereof signed and certified as a true copy by the Registrar General or an Assistant Registrar General shall be admissible evidence of the certificate of title for all purposes without further evidence of such certificate of title, and without accounting for the non-production of the certificate of title.

Right to
investigation of
some fact which
may affect a title.

21. When a person domiciled in or claiming land in The Bahamas desires to establish any of the following facts which may affect a title of land that is to say that —

- (a) he is the legitimate or legitimated child of his parents; or

- (b) the marriage of his father and mother or of his grandfather and grandmother was a valid marriage; or
- (c) his own marriage was a valid marriage; or
- (d) he is the heir or one of the heirs of any deceased person,

he may, if the court thinks fit, have any of such matters investigated and declared by a certificate in accordance with the provisions of this Act.

22. (1) The application for an investigation under section 21 of this Act shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or questioned by any person, or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any other dispute or question, except what he has set forth.

Application and affidavit in support.

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 3 of this Act, and the certificate granted on the investigation shall be recorded in the same way, and may be proved by the like evidence, as in the case of a certificate of title referred to in section 3 of this Act.

Investigation, proof, etc., in such case.

(3) The certificate when recorded shall be conclusive in favour of the person to whom it was granted and all persons claiming by, from, through or under him against the Crown and all persons whomsoever and shall be *prima facie* evidence in favour of all other persons as against the Crown and all persons whomsoever of the truth of the facts therein declared.

Effect of certificate.

(4) Every application under subsection (1) of this section shall be made to the court and shall be by petition in Form 2 of the Schedule.

Form of application and to whom made. Form 2, Schedule 45 of 1961, s. 8.

(5) The certificate granted under section 21 of this Act shall be substantially in the form of Form 5 of the Schedule, and shall be under the seal of the court and shall be signed by a judge thereof, and the certificate shall be recorded without any further proof thereof.

Form 5, Schedule

Where any party is an infant, a lunatic, etc.

23. (1) Where any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an infant, a lunatic or a person of unsound mind, the guardian of the infant, or committee of the estate of the lunatic or person of unsound mind may make such application, give such consent, do such act, and be party to such proceedings, as such person might do if free from disability, and shall otherwise represent such person for the purposes of this Act, and, if the infant has no guardian, or the lunatic or the person of unsound mind has no committee of his estate, the court may appoint a person with like power to act for the infant or the lunatic or the person of unsound mind.

Where any party is a company.

(2) Where any application under this Act is made by a company or corporation the petition may be signed by a director of the company or corporation or by the attorney acting for such company or corporation, and any affidavit in support thereof may be sworn by a director of such company or corporation, and any other instrument in this Act required to be signed by the petitioner shall be signed by a director of such company or corporation.

Objections to petition.

24. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land the court may grant an order against any other party to the proceedings for the delivery of possession thereof to the petitioner.

Proceedings not abated by certain events.

25. No proceedings under this Act shall abate or be suspended by any death or transmission or change of interest of any party thereto, but in any such event the court on being apprised of the event by summons may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending or carrying on the proceedings, or otherwise, in relation thereto as may seem just.

Proceedings not void for want of form.

26. No petition, order, affidavit, certificate, recording or other proceedings under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceedings.

27. If in the course of any proceedings under this Act any person acting either as principal or agent fraudulently, knowingly and with intent to deceive makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact or matter of information, any certificate of title obtained by means of such fraud or falsehood shall be null and void except as against a *bona fide* purchaser for valuable consideration without notice.

Certificate of title obtained by fraud.

28. Subject to the provisions of this Act and of any of the rules made hereunder and except where otherwise provided, the practice and procedure under the Supreme Court Act and the rules made thereunder shall apply to proceedings under this Act.

Practice and procedure.

Ch. 53.

29. The Rules Committee under section 75 of the Supreme Court Act may from time to time make rules for all or any of the following purposes:

Rules.
46 of 1964, Sch.
Ch. 53.

- (a) for referring petitions under this Act or any questions arising in the course of any proceedings thereon to a referee and to regulate the fees to be paid on such references;
- (b) for regulating the practice and procedure under this Act;
- (c) for fixing the fees of court for proceedings under this Act.

SCHEDULE

FORM 1 (Section 4)

PETITION TO QUIET A TITLE

IN THE SUPREME COURT OF THE BAHAMAS.

EQUITY SIDE

In the matter of
..... (*briefly describing the property*).

TO the Honourable the Judges of the Supreme Court of The Bahamas.

The Petition of of

SHEWETH:

That your petitioner is owner in fee simple in possession (*or as the case may be*) of the following land (*describing it*).

That there is no charge, encumbrance dower or right to dower affecting your petitioner’s title to the land, (except, etc., or that your petitioner’s title is subject only to the charges, encumbrances dowers or rights to dower mentioned in the schedule hereto, and that the only persons having or claiming any charge, encumbrance, estate, right or interest in the land are set forth in the schedule hereto and that the charge, encumbrance, estate, right or interest belonging to or claimed by each is therein set forth).

Your petitioner therefore prays that his title to the land may be investigated determined and declared under the Quieting Titles Act, 1959 (Ch. 393).

Dated this day of 19

A. B.

or

C. D., *Attorney for A. B.*

FORM 2 (Section 22(4))

PETITION TO ESTABLISH FACTS WHICH MAY AFFECT A
TITLE TO LAND

IN THE SUPREME COURT OF THE BAHAMAS.

EQUITY SIDE.

In the matter of
..... (*briefly describing
the property*).

TO the Honourable the Judges of the Supreme Court of The
Bahamas.

The Petition of of

SHEWETH:

That your petitioner is domiciled in or claiming land in The
Bahamas.

That (*stating the circumstances surrounding the facts sought to
be established*).

Your petitioner therefore prays that the matters set forth herein
may be investigated and the facts found declared under The Quieting
Titles Act, 1959 (Ch. 393).

Dated this day of 19

A.B.

or

C. D., Attorney for A. B.

FORM 3 (Section 7(2))

ADVERSE CLAIM

IN THE SUPREME COURT OF THE BAHAMAS.

EQUITY SIDE.

In the matter of, etc. (*as in petition*)

G.H. of etc., claims to be the owner of the land (*or as the case may
be*) (*stating briefly the nature and the grounds of the claim*).

Dated this day of 19

G. H.

or

E. F., Attorney for G. H.

FORM 4 (Section 18)

CERTIFICATE OF TITLE

IN THE SUPREME COURT OF THE BAHAMAS.

EQUITY SIDE

These are to certify under the authority of the Quieting Titles Act, 1959 (Ch. 393) that A.B., of is the legal and beneficial owner in fee simple in possession (or as the case may be) of all etc., (*here describe the land*) subject to the exceptions and qualifications mentioned in section 1 S of the said Act (*or as the case may be*), and to (*specifying either by reference to a schedule or otherwise any of the charges, encumbrances, dowers, rights to dower exceptions or qualifications to which the title of A. B. is subject*), but free from all other rights, interests, claims and demands whatever.

IN WITNESS WHEREOF

one of the Judges of the Supreme Court of The Bahamas has hereunto set his hand, and the seal of the Court has been hereunto affixed, this day of 19

.....

J.A.B. (L.S.)

FORM 5 (Section 22(5))

CERTIFICATE

IN THE SUPREME COURT OF THE BAHAMAS.

EQUITY SIDE

These are to certify under the authority of the Quieting Titles Act, 1959 (Ch. 393) that A.B., of is (*stating the facts found and declared under section 21 of the said Act and stating on whose application the same are declared*).

IN WITNESS WHEREOF

one of the Judges of the Supreme Court of The Bahamas has hereunto set his hand, and the seal of the Court has been hereunto affixed, this day of 19

.....

J.A.B. (L.S.)