

LAND TITLES RULES

[Cap. 159 (1948).]

PART I – PRELIMINARY

1. These Rules may be cited as the Land Titles Rules.

PART II – REGISTRATION OF JUDGMENT DECREES AND ORDERS OF A COURT

(1) A copy of a judgment, decree or order of a court transmitted to a registrar by a court under section 61 of the Act, and a will, letters of administration or an order of a court presented for registration under paragraph (a) of subsection (1) of section 62 of the Act, shall not be copied into the register, but, on receipt of the prescribed fees, shall be filed in the office of the registrar in such manner as the Principal Registrar shall direct, and a note referring to the judgment, decree, order, will or letters of administration and to the book in which it is filed shall be entered by the registrar in the volume and folio of the register in which the holding affected is registered.

(2) On the filing of any such document and on the entry being made in the register book, the document shall be deemed to be duly registered for the purposes of the Act.

(3) The file of documents under rule 2 shall be open to inspection on the same terms and on payment of the same fees as may, from time to time, be prescribed for search in the register book.

(1) The Court or person required to apply for the registration of a will or letters of administration or an order of a court under paragraph (a) of subsection (1) of section 62 of the Act, or to transmit a document as required by paragraph (b) of that subsection, shall transmit to the Registrar out of the moneys of the estate the fee prescribed for the registration of the will, letters of administration, order of the Court or document, as the case may be.

(2) In the case of a will, letters of administration or order of a court, the prescribed fee shall be transmitted to the registrar as soon as moneys belonging to the estate and sufficient to pay the fee have been received by the executor, administrator, wasi or court, as the case may be.

(3) In the case of a document transmitted in pursuance of paragraph (b) of subsection (1) of section 62 of the Act, the prescribed fee shall be sent to the registrar, together with the document.

PART III – ASCERTAINMENT OF VALUE OF PROPERTY

(1) Whenever it is necessary that the value of any property shall be ascertained for the purpose of determining the fee to be paid in respect of a certificate of ownership to be granted under the Act, or for the purpose of determining the sum to be paid by an unsuccessful claimant under subsection (1) of section 33 of the Act, the value shall be determined by the Recorder of Titles, and, save as hereinafter provided, his determination shall be final

and conclusive against the person to whom the certificate is to be granted, or against the claimant, as the case may be.

(2) Any person entitled to a certificate of ownership and any person against whom an order has been made under subsection (1) of section 33 of the Act who may be dissatisfied with the determination of the Recorder of Titles may, within thirty days after the determination has been first notified to him, appeal to the High Court against the determination in the manner prescribed by subsection (2) of section 7 of the Act for appeals against a final judgment or order.

6. Both for the purposes of the fee to be paid for a certificate of title and for the purposes of an order made against an unsuccessful claimant under subsection (1) of section 33 of the Act, the value of immovable property shall be deemed to be the market value of the property to be valued at the date of the valuation by the Recorder of Titles:

Provided that in determining the value of any land for the purpose of ascertaining the fee to be paid for a certificate of ownership the Recorder of Titles shall not take into consideration the value of any trees or crops or any buildings or other improvements on the land.

7. For the purpose of determining the value of any immovable property for any purpose under the Act, it shall not be necessary for the Recorder of Titles to have before him any documentary or oral evidence as to the value of the property:

Provided that the Recorder of Titles shall, if so required by any person who would have the right to appeal against his determination, receive and record any evidence produced by or on behalf of that person as to the value of the property.

PART IV – APPEALS

8. Every petition of appeal under the Act or any rules made thereunder shall be accompanied by the court fee prescribed by rules of court.

9. The Recorder of Titles shall endorse the date of lodgment on every petition so lodged, and shall forward the record of the claim or other matters in reference to which the appeal arises, together with the appeal fee, to the Registrar of the High Court.

10. In the event of an appellant wishing to appeal in forma pauperis, he may lodge with his petition of appeal a sworn statement as to means, and the Recorder of Titles shall attach to the record forwarded to the High Court his opinion thereon, and a judge of the High Court shall give directions as to the admission of the appeal in forma pauperis or otherwise.

11. Every petition of appeal shall concisely set forth the grounds of appeal, and shall be accompanied by as many copies as are necessary for service on the Commissioner of Lands and on each party who has claimed ownership of or an interest in the land in dispute before the Recorder of Titles.

12. The appearance of an appellant shall not be necessary for the hearing of an appeal, and if at the time of lodging his appeal he signifies his intention of not so appearing he may lodge with his petition of appeal arguments in support thereof together with a sufficient number of copies for service with the petition of appeal as required by rule 11.

13. If the original petition is in a language other than English or if the appellant does not file a sufficient number of copies as required by rules 11 and 12, the Registrar of the High Court shall cause the translation and a sufficient number of copies of the translation or of the original petition or of the arguments in support thereof, as the case may be, to be made at the cost of the appellant.

14. No person shall be entitled to be heard at the hearing of an appeal unless he is a person interested on whom notice has been served by the Recorder of Titles.

(1) The Commissioner of Lands, on behalf of the Government, shall not be entitled to be heard on an appeal except where he is the appellant or where he has notified the appellant through the Registrar of the High Court that he intends to contest the appeal on behalf of the Government.

(2) Notification shall be delivered to the Registrar of the High Court within fourteen days of the receipt of the copy of the petition of appeal by the Commissioner of Lands.

16. No appeal shall be set down for hearing till after the time for filing appeals with regard to the claim or matter in respect of which the appeal has been filed has expired, and, where more than one appeal has been filed in relation to disputes arising out of the same claim or matter or affecting the same immovable property, the High Court may hear the appeals separately or consolidate them as may be deemed fit.

17. The procedure at the hearing of an appeal shall, so far as may be, follow the existing procedure at the hearing by the High Court of an appeal from a subordinate court.

18. In addition to any other power conferred on the High Court as a court of appeal, the High Court shall have power—

- (a) to dismiss an appeal;
- (b) to reverse a judgment or order on a preliminary point, and on reversal to remand a claim to the Recorder of Titles with directions to deal with it on its merit;
- (c) to settle issues and finally determine a claim notwithstanding that the judgment or order appealed against has proceeded wholly on some other grounds than that on which the High Court proceeds;
- (d) to call additional evidence or direct the Recorder of Titles to take additional evidence;
- (e) to direct that any witness who has appeared before the Recorder of Titles be recalled and that his evidence on any point be recorded verbatim;
- (f) to reverse or vary the judgment or order against which the appeal is made;
- (g) to order that a judgment or order of the Recorder of Titles be set aside and that a claim or claims be reheard;
- (h) to settle issues and remand them to the Recorder of Titles for a finding thereon;
- (i) to make such order as to costs in the High Court and in the Land Registration Court as may be just, but no costs shall be awarded for or against the Commissioner of Lands except in those cases in which he is entitled to be heard under rule 15.

19. Costs shall be allowed and taxed according to the rules and practice under which costs are allowed and taxed on appeal from a subordinate court to the High Court.

PART V – DEMARCATION OF BOUNDARIES

20. In this Part—

“**dividing line**” means a line cut or made in the course of and for the purposes of a survey of land under section 22 of the Act demarcating the boundary or boundaries, of the lands of adjoining landowners;

“**occupier**” includes the owner of unoccupied land, not being Government land.

(1) Occupiers of land shall at all times maintain to the satisfaction of the Director of Surveys all dividing lines demarcating the boundary or boundaries of land occupied by them.

(2) Dividing lines shall be maintained at the joint expense of the occupiers of the lands divided by those lines.

22. The occupier of land may serve a notice on the occupier of the adjoining land requiring him to assist in doing any work which may be necessary to maintain the dividing

line between those lands, and if the occupier refuses or neglects for the space of one month after the service of the notice to assist in doing the work the first-named occupier may do such work as may be necessary to maintain the dividing line and may demand and recover from the occupier his portion of the cost of the work.

23. Whenever it appears to the Director of Surveys or to any officer of the Survey Department that any work should be done to maintain a dividing line, the Director of Surveys or other officer may serve a notice on any occupier of land divided from other land by that line, requiring the occupier to do such work as the Director of Surveys or other officer may consider necessary for the purpose of maintaining the line and as shall be specified in the notice and to complete it within such time as shall be specified in the notice.

24. An occupier on whom a notice has been served who fails to comply with the requirements specified therein shall be guilty of an offence and be liable to a fine not exceeding six hundred shillings.

(1) Whenever an occupier upon whom a notice has been served under rule 23 fails to comply with the requirements of the notice, the Director of Surveys may cause the work specified in the notice to be done, and may demand and recover from the person on whom the notice has been served the cost of the work.

(2) Any proceedings for the recovery of costs under this Rule shall be taken in the name of the Director of Surveys.

26. An occupier on whom a notice has been served under rule 23 may serve a notice on any person on whom he is authorised by rule 22 to serve a notice, requiring that person to assist in doing the work directed to be done, and, if that person refuses or neglects to assist in doing the work, the occupier may demand and recover from that person his portion of the cost of the work done by the occupier in compliance with the notice served upon him.

(1) All boundary marks placed on any land for the purposes of section 22 of the Act shall be maintained and repaired at the joint or proportionate expense of the proprietor of the land and of the proprietors of land contiguous thereto.

(2) Rules 22 to 26 inclusive shall apply *mutatis mutandis* to the maintenance and repair of boundary marks and to the rights, duties and remedies of proprietors of land and of the Survey Department in respect thereof.

28. Any person in the service of the Survey Department may at any time enter upon any land for the purpose of inspecting any boundary mark or boundary line erected or made for the purposes of the Act.

PART VI – PROCEEDINGS RESPECTING LAND TO WHICH NO TITLE ESTABLISHED

29. At any time after all the applications for certificates in any one district or subdistrict have been adjudicated, upon or when the time allowed for making such applications has expired the Recorder may give notice in the Gazette that the remaining lands not dealt with in that district or subdistrict are Government lands.

30. After the hearing of any application for a certificate of ownership in respect of any lands to which no title is established, the Recorder may give notice in the same manner that the land comprised in the application is Government land.

31. A notice under this Part shall not be irrevocable.

32. At such time as may be deemed expedient, not being less than thirty days after the notices have been published by the Recorder, application may be made to the Land Registration Court by any Government officer thereto authorised for a certificate of ownership in favour of the Government in respect of those lands.

33. A certificate of ownership under rule 32 shall be an indefeasible title.
