

CHAPTER 3.06

REAL REPRESENTATIVE ACT

(Acts 7 of 1928 and 24 of 1956)

Commencement

[14 May 1928]

Short title

1. This Act may be cited as the Real Representative Act.

Devolution of legal interest in real estate on death

2. (1) Where real estate is vested in any person without a right in any other person to take by survivorship it shall, on his death, notwithstanding any testamentary disposition devolve to and become vested in his personal representatives or representative from time to time as if it were a chattel real vesting in them or him.

(2) This section shall apply to any real estate over which a person executes by will a general power of appointment as if it were real estate vested in him.

(3) Probate and letters of administration may be granted in respect of real estate only, although there is no personal estate.

(4) This section applies only in cases of death after commencement of this Act.

Provisions as to administration

3. (1) Subject to the powers, rights, duties, and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold the real estate as trustees for the persons by law beneficially entitled thereto, and those persons shall have the same power of requiring a transfer of real estate as persons beneficially entitled to personal estate have of requiring a transfer of such personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties and liabilities of personal representatives in respect of personal estate, shall apply to real estate so far as the same are applicable, as if that real estate were a chattel real vesting in them or him, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of a Judge of the High Court, to sell or transfer real estate.

(3) In the administration of the assets of a person dying after the commencement of this Act, his real estate shall be administered in the same manner, subject to the same liabilities for debt, costs and expenses, and with the same incidents, as if it were personal estate: Provided that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts or legacies, or the liability of real estate to be charged with the payment of legacies.

(4) Where a person dies possessed of real estate, the Court shall, in granting letters of administration, have regard to the rights and interests of persons interested in his real estate, and his heir-at-law, if not one of the next of kin, shall be equally entitled to the grant with the next-of-kin, and provision shall be made by rules of Court for adapting the procedure and practice in the grant of letters of administration to the case of real estate.

Provision for transfer to heir or devisee

4. (1) At any time after the death of the owner of any land, his personal representatives may assent to any devise contained in his will, or may convey the land to any person entitled thereto as heir, devisee or otherwise, and may make the assent or conveyance, either subject to a charge for the payment of any money which the personal representatives are liable to pay, or without any such charge, and on such assent or conveyance, subject to a charge for all moneys (if any) which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or conveyance.

(2) At any time after the expiration of one year from the death of the owner of any land, if his personal representatives have failed at the request of the person entitled to the land to convey land to that person, the Court may, if it thinks fit, on the application of that person, and after notice to the personal representatives, order that the conveyance be made, or, in the case of land held under the Title by Registration Act, that the person so entitled be registered as proprietor of the land, either solely or jointly with the personal representatives.

(3) Where the personal representatives of a deceased person are registered as proprietors of land on his death, the provisions of any Act notwithstanding, no fees shall be chargeable on any transfer of the land by them unless the transfer is for valuable consideration: Provided that this subsection shall not be deemed to affect the fees payable to solicitors in accordance with the scale set forth in the Fifth Schedule to the Title by Registration Act.

(4) The production of a memorandum of transfer in the prescribed form by the personal representatives of a deceased registered proprietor of land held under the Title by Registration Act, shall authorize the Registrar to register the person named in the memorandum of transfer as proprietor of the land.

Liability for duty

5. Nothing in this Act shall affect any duty payable in respect of real estate or impose on real estate any other duty than is now payable in respect thereof.
