

Conveyancing and Law of Property Act

R.S.O. 1990, CHAPTER C.34

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Interpretation

Definitions

1. (1) In this Act,

“conveyance” includes an assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property, and “convey” has a meaning corresponding with that of conveyance; (“acte translatif de propriété”, “transport”, “transporter”)

“land” includes messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land; (“bien-fonds”)

“mortgage” includes a charge on property for securing money or money’s worth; (“hypothèque”)

“mortgage money” means money or money’s worth secured by a mortgage; (“créance hypothécaire”)

“mortgagee” includes a person from time to time deriving title under the original mortgagee; (“créancier hypothécaire”)

“mortgagor” includes a person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to the original mortgagor’s estate, interest or right in the mortgaged property; (“débiteur hypothécaire”)

“property” includes real and personal property, a debt, a thing in action, and any other right or interest; (“bien”)

“puffer” means a person appointed to bid on the part of the seller; (“faux enchérisseur”)

“purchaser” includes a lessee, a mortgagee and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property, and “purchase” has a meaning corresponding with that of purchaser; but “sale” means only a sale properly so called. (“acquéreur”, “acquisition”, “vente”) R.S.O. 1990, c. C.34, s. 1 (1).

Free and common socage, fief, seignory, etc.

(2) Despite their repeal, section 43 of The Clergy Endowments (Canada) Act, 1791 (Imperial) and sections 31 and 32 of The British North America (Trade and Lands) Act, 1822 (Imperial), as they applied in Ontario immediately before their repeal, continue in effect in Ontario. R.S.O. 1990, c. C.34, s. 1 (2).

Conveyance of corporeal tenements

2. All corporeal tenements and hereditaments, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1990, c. C.34, s. 2.

Form and operation of feoffments

3. A feoffment, otherwise than by deed, is void and no feoffment shall have any tortious operation. R.S.O. 1990, c. C.34, s. 3.

Estate tail to be construed as fee simple

4. A limitation in a conveyance or will that before the 27th day of May, 1956, would have created an estate tail shall be construed as an estate in fee simple or the greatest estate that the grantor or testator had in the land. R.S.O. 1990, c. C.34, s. 4.

Limitation

5. (1) In a conveyance, it is not necessary, in the limitation of an estate in fee simple, to use the word "heirs". R.S.O. 1990, c. C.34, s. 5 (1).

Idem

(2) For the purpose of such limitation, it is sufficient in a conveyance to use the words "in fee simple" or any other words sufficiently indicating the limitation intended. R.S.O. 1990, c. C.34, s. 5 (2).

Effect of conveyance without words of limitation

(3) Where no words of limitation are used, the conveyance passes all the estate, right, title, interest, claim and demand that the conveying parties have in, to, or on the property conveyed, or expressed or intended so to be, or that they have power to convey in, to, or on the same. R.S.O. 1990, c. C.34, s. 5 (3).

Saving

(4) Subsection (3) applies only if and as far as a contrary intention does not appear from the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained. R.S.O. 1990, c. C.34, s. 5 (4).

Operation of section

(5) This section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1990, c. C.34, s. 5 (5).

Statement of consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it. R.S.O. 1990, c. C.34, s. 6.

Statement as evidence for subsequent purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof. R.S.O. 1990, c. C.34, s. 7.

Rights of purchaser as to execution

8. A purchaser may not require that the conveyance be executed in the purchaser's presence or in presence of the purchaser's solicitor but the purchaser may require that it be attested by a person appointed by the purchaser and the purchaser's solicitor may be appointed for that purpose. R.S.O. 1990, c. C.34, s. 8.

Requirement of deed for certain interests

9. A partition of land, an exchange of land, an assignment of a chattel interest in land, and a surrender in writing of land not being an interest that might by law have been created without writing, are void at law, unless made by deed. R.S.O. 1990, c. C.34, s. 9.

Disposal of certain interests in land by deed

10. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed, but no such disposition, by force only of this Act, defeats or enlarges an estate tail. R.S.O. 1990, c. C.34, s. 10.

Exchange or partition, “give” or “grant”

11. An exchange or a partition of any tenements or hereditaments does not imply any condition in law, and the word “give” or the word “grant” in a conveyance does not imply any covenant in law, except so far as the word “give” or the word “grant” may, by force of any Act in force in Ontario, imply a covenant. R.S.O. 1990, c. C.34, s. 11.

Application of ss. 9-11

12. Sections 9, 10 and 11 do not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. R.S.O. 1990, c. C.34, s. 12.

Effect of grants, devises, etc., to two or more

13. (1) Where by any letters patent, assurance or will, made and executed after the 1st day of July, 1834, land has been or is granted, conveyed or devised to two or more persons, other than executors or trustees, in fee simple or for any less estate, it shall be considered that such persons took or take as tenants in

common and not as joint tenants, unless an intention sufficiently appears on the face of the letters patent, assurance or will, that they are to take as joint tenants. R.S.O. 1990, c. C.34, s. 13 (1).

Spouse

(2) This section applies notwithstanding that one of such persons is the spouse of another of them. R.S.O. 1990, c. C.34, s. 13 (2); 1999, c. 6, s. 13 (1); 2005, c. 5, s. 13 (1).

Definition

(3) In subsection (2),

“spouse” means,

(a) a spouse as defined in section 1 of the Family Law Act, or

(b) either of two persons who live together in a conjugal relationship outside marriage. 1999, c. 6, s. 13 (2); 2005, c. 5, s. 13 (2, 3).

Land acquired by possession by two or more

14. Where two or more persons acquire land by length of possession, they shall be considered to hold as tenants in common and not as joint tenants. R.S.O. 1990, c. C.34, s. 14.

What included in conveyance

15. (1) Every conveyance of land, unless an exception is specially made therein, includes all houses, outhouses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, watercourses, lights, liberties, privileges, easements,

profits, commodities, emoluments, hereditaments and appurtenances whatsoever to such land belonging or in anywise appertaining, or with such land demised, held, used, occupied and enjoyed or taken or known as part or parcel thereof, and, if the conveyance purports to convey an estate in fee simple, also the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever of the grantor into, out of or upon the same land, and every part and parcel thereof, with their and every of their appurtenances. R.S.O. 1990, c. C.34, s. 15 (1).

Application of section

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1990, c. C.34, s. 15 (2).

Meaning of “mining rights”

16. Unless the contrary appears to be the intent of the instrument, where in a conveyance the “mining rights” in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the ores, mines and minerals on or under the land, together with such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1990, c. C.34, s. 16.

Meaning of “surface rights”

17. Unless the contrary appears to be the intent of the instrument, where in a conveyance the “surface rights” in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the land therein described with the exception of the ores, mines and minerals on or under the land and such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1990, c. C.34, s. 17.

Application

18. In an instrument purporting to deal with “mining rights” or “surface rights” these expressions respectively have the meaning given them by sections 16 and 17. R.S.O. 1990, c. C.34, s. 18.

Operation of ss. 16-18

19. Sections 16, 17 and 18 have effect only as to conveyances or instruments executed on or after the 1st day of July, 1914, and do not apply to conveyances by the Crown. R.S.O. 1990, c. C.34, s. 19.

How corporations may convey

20. Any corporation capable of taking and conveying land in Ontario shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale in like manner as a person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land that are applicable to the corporation. R.S.O. 1990, c. C.34, s. 20.

Provision for sales free from encumbrances

21. (1) Where land subject to an encumbrance, whether immediately payable or not, is sold by a court or out of court, the court in which the sale takes place or the Superior Court of Justice may, on the application of a party to the sale, direct or allow payment into court, in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, of such amount as, having regard to the interest that it will earn, the court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge, and, in any other case of capital money charged on the land, of an amount sufficient to meet the encumbrance and any interest due thereon, but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, not exceeding one-tenth of the original amount to be paid in, unless the court for special reasons thinks fit to require a larger additional amount. R.S.O. 1990, c. C.34, s. 21 (1); 2006, c. 19, Sched. C, s. 1 (1).

Conveyance or vesting order

(2) The court may thereupon, either after or without notice to the encumbrancer, declare the land to be freed from the encumbrance, and may make any order for conveyance or vesting order proper for giving effect to the sale. R.S.O. 1990, c. C.34, s. 21 (2).

Directions

(3) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof. R.S.O. 1990, c. C.34, s. 21 (3).

Effect of payment into court

(4) Payment of money into court effectually exonerates therefrom the person making the payment and frees the land from the charge or encumbrance. R.S.O. 1990, c. C.34, s. 21 (4).

Covenants to restrict use of land because of race, creed, etc.

22. Every covenant made after the 24th day of March, 1950, that but for this section would be annexed to and run with land and that restricts the sale, ownership, occupation or use of land because of the race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect. R.S.O. 1990, c. C.34, s. 22.

Covenants to be implied

23. (1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On conveyance for value by beneficial owner

1. In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,

i. right to convey,

ii. quiet enjoyment,

iii. freedom from encumbrances, and

iv. further assurance,

according to the forms of covenants for such purposes set forth in Schedule B to the Short Forms of Conveyances Act, being chapter 472 of the Revised Statutes of Ontario, 1980, and therein numbered 2, 3, 4 and 5, subject to that Act.

On conveyance of leaseholds for value by beneficial owner

2. In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner:

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under the lessee or grantee to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance.

On conveyance by trustee, etc.

3. In a conveyance the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as guardian of property, or under an order of the court, which covenant shall be deemed to extend to every such person's own acts only, namely:

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to any deed, act, matter or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or encumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

On settlement for further assurance, limited

4. In a conveyance by way of settlement the following covenant by a person who conveys and is expressed to convey as settlor, namely:

That the settlor, and every person deriving title under the settlor by deed or act or operation of law in the settlor's lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on the settlor's death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required. R.S.O. 1990, c. C.34, s. 23 (1); 1992, c. 32, s. 5.

On conveyance by direction of beneficial owner

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or not the person conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by the person's direction, and the covenants on the person's part mentioned in paragraph 1 of subsection (1) shall be implied accordingly. R.S.O. 1990, c. C.34, s. 23 (2).

Enforcing covenants

(3) The benefit of a covenant so implied is annexed and incident to and goes with the estate or interest of the implied covenantee, and is capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested. R.S.O. 1990, c. C.34, s. 23 (3).

Variation of covenants

(4) A covenant so implied may be varied or extended and as so varied or extended operates, as far as may be, in the like manner and with all the like incidents, effects and consequences as if such variations or extensions were directed in this section to be implied. R.S.O. 1990, c. C.34, s. 23 (4).

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the Land Registration Reform Act, that are executed on or after the day on which the land is designated under clause 14 (a) of that Act. R.S.O. 1990, c. C.34, s. 23 (5).

Operation of covenants

Land of inheritance

24. (1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, and the covenantee's heirs and assigns, and has effect as if heirs and assigns were expressed. R.S.O. 1990, c. C.34, s. 24 (1).

Land, not of inheritance

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, and the covenantee's executors, administrators and assigns, and has effect as if executors, administrators and assigns were expressed. R.S.O. 1990, c. C.34, s. 24 (2).

Mode of executing powers

25. (1) A deed executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by an instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, be executed or attested with some additional or other form of execution or attestation or solemnity. R.S.O. 1990, c. C.34, s. 25 (1).

Saving of other requirements

(2) This section does not operate to defeat any direction in the deed or instrument creating the power that the consent of a particular person is necessary to a valid execution, or that any act is performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument. R.S.O. 1990, c. C.34, s. 25 (2).

Power may be observed

(3) Nothing in this section prevents the donee of a power from executing it conformably to the power. R.S.O. 1990, c. C.34, s. 25 (3).

Disclaimer of power by donee

26. (1) A person to whom a power, whether coupled with an interest or not, is given may by deed disclaim or release or contract not to exercise the power. R.S.O. 1990, c. C.34, s. 26 (1).

Disclaimers of power

(2) A person disclaiming is not afterwards capable of exercising or joining in the exercise of the power, and on such disclaimer the power may be exercised by the other or others or the survivor or survivors of the others of the persons to whom the power was given, unless the contrary is expressed in the instrument creating the power. R.S.O. 1990, c. C.34, s. 26 (2).

Validity of sale under power although mistaken payment to tenant for life

27. Where under a power of sale a sale in good faith is made of an estate with the timber thereon or with any articles attached thereto, and the tenant for life or any other party to the transaction is by mistake allowed to receive for their own benefit a part of the purchase money or value of the timber or article, the Superior Court of Justice, upon an action brought or upon application made, may declare that upon payment by the purchaser or the claimant under the purchaser of the full value of the timber or article at the time of the sale, with such interest thereon as the court directs, and the settlement of the principal money and interest under the direction of the court, upon such person as in the opinion of the court is entitled thereto, the sale ought to be established, and upon payment and settlement being made accordingly, the court may declare the sale valid, and thereupon the legal estate vests and goes in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under the purchaser. R.S.O. 1990, c. C.34, s. 27; 2006, c. 19, Sched. C, s. 1 (1).

Illusory appointments

28. (1) No appointment made in exercise of a power or authority to appoint any property, real or personal, among several objects, is invalid or shall be impeached on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power, or upon the ground that any object of such power has been altogether excluded, but every such appointment is valid and effectual, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof, or nominal share of the property subject to such power. R.S.O. 1990, c. C.34, s. 28 (1).

Saving of positive requirements in constating instrument

(2) Nothing in this section prejudices or affects any provision in a deed, will or other instrument creating any such power that declares the amount of the share or shares from which no object of the power shall be excluded or that some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed, to devolve upon any object of such power. R.S.O. 1990, c. C.34, s. 28 (2).

Waste by dowress, etc.

29. A dowress, a tenant for life or for years, and the guardian of the estate of a minor, are impeachable for waste and liable in damages to the person injured. R.S.O. 1990, c. C.34, s. 29.

Waste by tenant for life without impeachment of waste

30. An estate for life without impeachment of waste does not confer upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate. R.S.O. 1990, c. C.34, s. 30.

Waste between joint tenants and tenants in common

31. Tenants in common and joint tenants are liable to their co-tenants for waste, or, in the event of a partition, the part wasted may be assigned to the tenant committing the waste at the value thereof to be estimated as if no waste had been committed. R.S.O. 1990, c. C.34, s. 31.

Waste by lessees

32. Lessees making or suffering waste on the demised premises without licence of the lessors are liable for the full damage so occasioned. R.S.O. 1990, c. C.34, s. 32.

Release of part of land from rent-charge

33. The release from a rent-charge of part of the land charged therewith does not extinguish the whole rent-charge, but operates only to bar the right to recover any part of it out of the land released without prejudice to the rights of all persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1990, c. C.34, s. 33.

Abrogation of doctrine of scintilla juris

34. Where by a deed, will or other instrument land is limited to uses, all uses thereunder, whether expressed or implied by law and whether immediate or future or contingent or executory or to be declared under any power therein contained, take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in the person or elsewhere of any seisin to uses or scintilla juris are not necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or scintilla juris be deemed to be suspended or to remain or to subsist in the person or elsewhere. R.S.O. 1990, c. C.34, s. 34.

Contingent remainders

35. Every contingent remainder is capable of taking effect notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold. R.S.O. 1990, c. C.34, s. 35.

Merger

No merger of estate by operation of law

36. (1) There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to The Ontario Judicature Act, 1881, would not have been deemed merged or extinguished in equity. R.S.O. 1990, c. C.34, s. 36 (1).

Merger of leasehold in freehold

(2) Where a person who has a leasehold estate in land under a lease,

(a) from Ontario Mortgage and Housing Corporation or Ontario Land Corporation; or

(b) from the Crown under the Mining Act or the Public Lands Act,

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held. R.S.O. 1990, c. C.34, s. 36 (2); 2006, c. 32, Sched. E, s. 3.

Lien on lands for improvements under mistake of title

37. (1) Where a person makes lasting improvements on land under the belief that it is the person's own, the person or the person's assigns are entitled to a lien upon it to the extent of the amount by which its value is enhanced by the improvements, or are entitled or may be required to retain the land if the Superior Court of Justice is of opinion or requires that this should be done, according as may under all circumstances of the case be most just, making compensation for the land, if retained, as the court directs. R.S.O. 1990, c. C.34, s. 37 (1); 2006, c. 19, Sched. C, s. 1 (1).

Appeal

(2) An appeal lies to the Divisional Court from any order made under this section. R.S.O. 1990, c. C.34, s. 37 (2).

Rule as to purchase of reversions

38. No purchase made in good faith and without fraud of any reversionary interest in property shall be opened or set aside on the ground of undervalue. R.S.O. 1990, c. C.34, s. 38.

Onus of proof

39. It is not necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money or any part thereof. R.S.O. 1990, c. C.34, s. 39.

Assignment of property to self and others

40. Any property may be conveyed by a person to the person jointly with another person by the like means by which it might be conveyed by the person to another person. R.S.O. 1990, c. C.34, s. 40.

Conveyance of property to self

41. A person may convey property to or vest property in the person in like manner as the person could have conveyed the property to or vested the property in another person. R.S.O. 1990, c. C.34, s. 41.

Two or more persons may convey to any one or more of themselves

42. Two or more persons, whether or not they are trustees or personal representatives, may convey and shall be deemed always to have been capable of conveying property vested in them to any one or more of themselves in like manner as they could have conveyed the property to a third party, but, if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance is liable to be set aside. R.S.O. 1990, c. C.34, s. 42.

Joint tenancy of corporation and an individual

43. (1) A corporation is and has been capable of acquiring and holding real or personal property in joint tenancy in the same manner as if it were an individual, and, where a corporation and an individual, or two or more corporations, became or become entitled to any such property under circumstances or by virtue of any instrument that would, if the corporation had been an individual, have created a joint tenancy, they are and have been entitled to the property as joint tenants, but the acquisition and holding of property by a corporation in joint tenancy has been and is subject to the like conditions and restrictions as attach to the acquisition and holding of property by a corporation in severalty. R.S.O. 1990, c. C.34, s. 43 (1).

Devolution on dissolution of corporate joint tenant

(2) Where a corporation is joint tenant of property and the corporation dissolves, the property devolves on the other joint tenant. R.S.O. 1990, c. C.34, s. 43 (2).

Effect of reservation of right of way or other easement

44. Where by the terms of a conveyance of land a right of way or easement is reserved or excepted from the land thereby transferred or charged, such reservation or exception is effectual and shall be deemed always to have been effectual to vest the right of way or easement in the transferor or chargor of the land notwithstanding that the transferee or chargee does not execute the instrument. R.S.O. 1990, c. C.34, s. 44.

Capacity of posthumous children to take in remainder

45. Where an estate is, by a marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of a person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten or to be begotten who is born after the decease of his or her father shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or daughter, until he or she come in esse, or is born, to take the same. R.S.O. 1990, c. C.34, s. 45.

Life estate, presumed death of person on whose life estate depends

46. If a person for whose life an estate is granted remains out of Ontario or absents himself or herself therefrom for the space of seven years together so that it cannot be ascertained whether he or she is alive or dead and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner or his or her heirs or assigns, judgment shall be given accordingly. R.S.O. 1990, c. C.34, s. 46.

Right of tenant when person on whose life estate depends proved to be living

47. If a person is evicted out of land by virtue of section 46, and if afterwards the person upon whose life such estate depends returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living or to have been living at the time of the eviction, the tenant or lessee who was ousted or his or her executors, administrators or assigns, may re-enter, repossess, have, hold and enjoy the land in his or her former estate, for and during the life, or so long a term as the person upon whose life the estate depends is living, and also shall, upon action to be brought by him or her against the lessor, reversioner, tenant in possession or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits thereof, with lawful interest for, and from, the time that he or she was ousted and kept or held out of the land by such lessor, reversioner, tenant in possession or other person, whether the person upon whose life such estate depends is living or dead at the time of bringing the action. R.S.O. 1990, c. C.34, s. 47.

Order for production of person at instance of reversioner, etc.

48. (1) The Superior Court of Justice may, on the application of a person who has a claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of a person within age, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his or her title, and that he or she has cause to believe that such minor or other person is dead, and that his or her death is concealed by the guardian, trustee or other person, which application may be made once a year if the person aggrieved thinks fit, order that such guardian, trustee or other person concealing, or suspected to conceal, such person, do, at such time and place as the court directs, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order, such minor or other person. R.S.O. 1990, c. C.34, s. 48 (1); 2006, c. 19, Sched. C, s. 1 (1).

Order for production of person before commissioner

(2) If such guardian, trustee or other person refuses or neglects to produce or show such minor or other person on whose life any such estate depends according to the directions of the order, the court is hereby authorized and required to order such guardian, trustee or other person to produce such minor or other person concealed, in the court or otherwise before commissioners to be appointed by the court at such time and place as the court directs, two of which commissioners shall be nominated by the party prosecuting such order, at the party's costs and charges. R.S.O. 1990, c. C.34, s. 48 (2).

Presumption on failure to produce

(3) If such guardian, trustee or other person refuses or neglects to produce such minor or other person so concealed, in court or before such commissioners, whereof return shall be made by such commissioners and filed in an office of the Superior Court of Justice, in either, or any, of such cases, such minor or other person shall be taken to be dead, and it is lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor or other person to enter upon such land as if such minor or other person were actually dead. R.S.O. 1990, c. C.34, s. 48 (3); 2006, c. 19, Sched. C, s. 1 (1).

Where person required to be produced is out of Ontario

49. If it appears to the court by affidavit that such minor or other person is, or lately was, at some certain place out of Ontario in the affidavit mentioned, the party prosecuting such order, at the party's costs and charges, may send over one or both of the persons appointed by the order to view such minor or other person, and if such guardian, trustee or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor or other person, then such person or persons shall make a true return of such refusal or neglect to the court, which shall be filed in an office of the Superior Court of Justice and thereupon such minor or other person shall be taken to be dead, and any person claiming any right, title or interest in remainder, reversion or otherwise, after the death of such minor or other person, may enter upon such land as if such minor or other person were actually dead. R.S.O. 1990, c. C.34, s. 49; 2006, c. 19, Sched. C, s. 1 (1).

When it appears that person required to be produced was alive

50. If it afterwards appears, upon proof in an action to be brought, that such minor or other person was alive at the time such order was made, such minor, guardian, trustee or other person having any estate or interest determinable upon such life may re-enter upon the land and may maintain an action against those who, since the order, received the profits thereof, or their executors or administrators, and recover full damages for the profits of the same received from the time that such minor or other person having an estate or interest determinable upon such life was ousted of the possession of such land. R.S.O. 1990, c. C.34, s. 50.

When it appears that guardian, etc., cannot produce person who is alive

51. If any such guardian, trustee or other person holding or having any estate or interest determinable upon the life of any other person shows to the satisfaction of the court that they have used their utmost endeavour to procure such minor or other person on whose life such estate or interest depends to appear in court or elsewhere according to the order, and that they cannot procure or compel such appearance, and that such minor or other person is living or was living at the time such return was made and filed, the court may order that such person may continue in the possession of such estate and receive the rents and profits thereof during the minority of such minor and the life of any other person on whose life such estate or interest next depends as fully as they might have done if this section and sections 48, 49 and 50 had not been enacted. R.S.O. 1990, c. C.34, s. 51.

Guardians, trustees, etc., holding over without consent of remainderman, etc., deemed trespassers

52. Every person having an estate or interest in land determinable upon a life and the guardian or trustee for a minor having such an estate who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land upon and after the determination of such particular estate or interest may recover in damages against every such person so holding over the full value of the profits received during such wrongful possession. R.S.O. 1990, c. C.34, s. 52.

Assignments of debts and choses in action

53. (1) Any absolute assignment made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action is effectual in law, subject to all equities that would have been entitled to priority over the right of the assignee if this section had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor. R.S.O. 1990, c. C.34, s. 53 (1).

Where several claimants under assignment

(2) In the case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that such assignment is disputed by the assignor or any one claiming under the assignor, or of any other opposing or conflicting claims to such debt or chose in action, the debtor, trustee or other person may call upon the several persons making claim thereto to interplead concerning the same, or may pay the same into the Superior Court of Justice under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1990, c. C.34, s. 53 (2); 2006, c. 19, Sched. C, s. 1 (1).

Bonds and debentures of corporations

54. (1) The bonds or debentures of a corporation made payable to bearer, or to a person named therein or bearer, may be transferred by delivery, and if payable to a person or order, after general endorsement thereof by such person, are transferable by delivery. R.S.O. 1990, c. C.34, s. 54 (1).

Rights of holder

(2) Any such transfer vests the property in the bond or debenture in the holder thereof and enables the holder to maintain an action thereon in the holder's own name. R.S.O. 1990, c. C.34, s. 54 (2).

Auctions of estates when sale deemed without reserve

55. Unless in the particulars or conditions of sale by auction of land it is stated that the land will be sold subject to a reserved price or to a right of the seller to bid, the sale shall be deemed to be without reserve. R.S.O. 1990, c. C.34, s. 55.

Prohibition against seller bidding

56. Upon a sale of land by auction, without reserve, it is not lawful for a seller or for a puffer to bid at the sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R.S.O. 1990, c. C.34, s. 56.

When seller may bid

57. Upon a sale of land by auction, subject to a right of the seller to bid, it is lawful for the seller or any one puffer to bid at the auction in such manner as the seller thinks proper. R.S.O. 1990, c. C.34, s. 57.

Seller not authorized to purchase

58. Nothing in sections 55, 56 and 57 authorizes a seller to become the purchaser at the sale. R.S.O. 1990, c. C.34, s. 58.

Liability of vendor or mortgagor for fraudulent concealment of deeds, etc., or falsifying pedigree

59. If a seller or mortgagor of property or the solicitor or agent of either conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce the acceptance of the title offered or produced, with intent to defraud, such seller, mortgagor, solicitor or agent, irrespective of any criminal liability, is liable at the suit of the purchaser or mortgagee or those claiming under either of them for any loss sustained by any of them in consequence of the settlement, deed, will or other instrument or encumbrance so concealed, or of any claim made by any person under such pedigree whose right was so concealed by the falsification of such pedigree, and, in the case of land, in estimating such damages where the property is recovered from such purchaser or mortgagee or from those claiming under either of them, regard shall be had to any expenditure by any of them, in improvements on the land. R.S.O. 1990, c. C.34, s. 59.

Orders of court, effect

60. An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service. R.S.O. 1990, c. C.34, s. 60.

Restrictive covenants, modification or discharge of

61. (1) Where there is annexed to land a condition or covenant that the land or a specified part of it is not to be built on or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land, any such condition or covenant may be modified or discharged by order of the Superior Court of Justice. R.S.O. 1990, c. C.34, s. 61 (1); 2006, c. 19, Sched. C, s. 1 (1).

Appeal

(2) An appeal lies to the Divisional Court from a decision under this section. R.S.O. 1990, c. C.34, s. 61 (2).

Exception

(3) Nothing in this section applies to building restrictions imposed by a by-law passed under the Municipal Act, 2001, the City of Toronto Act, 2006 or the Planning Act. R.S.O. 1990, c. C.34, s. 61 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 10.

Same

(4) Nothing in this section applies to covenants and easements,

(a) established under the Agricultural Research Institute of Ontario Act;

(b) entered into or granted under the Conservation Land Act; or

(c) entered into under clause 10 (1) (c) or section 37 of the Ontario Heritage Act. 2006, c. 23, s. 31; 2009, c. 33, Sched. 11, s. 3.