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c 193 Investigation of Titles Act

Ontario

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CHAPTER 193

The Investigation of Titles Act

1. In this Act,

Interpre-
tation

(a) "claim" means a right, title, interest, claim or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes mortgages, liens, easements, agreements, contracts, options, charges, annuities, leases, dower rights whether inchoate or otherwise, and restrictions as to use of land or other encumbrance affecting land, but does not include a highway, public lane, unregistered right of way or other easement or right that a person is openly enjoying and using or any claim imposed by any statutory enactment;

(b) "instrument" includes a Crown grant, order in council of Canada or of Ontario, deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney under which any such instrument is executed, bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any court, judgment, or order of foreclosure, and includes every other certificate of judgment or order of any court affecting any interest in or title to land, and every certificate of amalgamation of loan corporations, every certificate of payment of taxes granted under the corporate seal of the county, city or town by the treasurer, every sheriff's and treasurer's deed of land sold by virtue of his office, every contract in writing, every order and proceeding in mental incompetency, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument whereby land may be transferred, disposed of, charged, encumbered or affected in any wise, affecting land in Ontario;

R.S.O. 1960,
c. 106

- (c) "land" includes lands, tenements, hereditaments and appurtenances and any estate or interest therein;
- (d) "owner" means a person entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy. R.S.O. 1950, c. 186, s. 1.

Title for
40 years
to be good

2.—(1) From and after the 1st day of June, 1930, no person in dealing with land shall be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title, save and except during the period of forty years immediately preceding the date of such dealing as aforesaid, and no claim that has been in existence longer than the forty-year period affects the land, unless the claim has been acknowledged or specifically referred to or contained in an instrument registered against the land within the forty-year period or unless a notice is registered against the land as provided in subsections 6, 7, 8 and 10. R.S.O. 1950, c. 186, s. 2 (1).

Notice
of claim

Where
subs. 1
not to
apply
R.S.O. 1960,
cc. 48, 340

(2) Subsection 1 does not apply to land with respect to which a certificate of title has been given under *The Certification of Titles Act* or *The Quieting Titles Act* within the forty-year period mentioned in subsection 1. 1957, c. 53, s. 1; 1958, c. 44, s. 1.

No notice
necessary in
certain cases

(3) Where a person is shown by the books of a registry office to be the owner of a freehold or leasehold estate in land or of an equity of redemption therein prior to any forty-year period and is continuously shown on the books from time to time during the forty-year period and thereafter as the owner of either a freehold or leasehold estate in the same land or of an equity of redemption therein or any of them, such person's claim to the land is not affected by failure to register the notice as required by subsection 1.

Dower,
while
husband
remains
owner

(4) Notwithstanding subsection 1, it is not necessary for a wife to register a claim with respect to her inchoate right to dower in land so long as her husband is wholly or in part the owner thereof.

Dower after
alienation

(5) In the case of a claim registered in respect of an inchoate right to dower in lands alienated by a husband without bar of dower, the forty-year period mentioned in subsection 1 runs from the date of such alienation.

Registration
of notice of
claim

(6) Upon the 1st day of June, 1929, and within one year thereafter, a person having a claim against any land, which claim has been in existence for forty years or more prior to the first day of June, 1929, but in respect to which claim no notice of its existence has been given, acknowledged or spe-

cifically referred to or contained in an instrument registered against the land within forty years prior to the 1st day of June, 1929, or a person on his behalf may register in the proper registry office a notice in which shall be set forth the claimant's full name and address and a description of the land and a detailed statement of the claim, verified by the affidavit of the person registering the notice.

(7) A person having a claim against land, or a person on his behalf, may within forty years from the date of the registration of an instrument in which the claim is acknowledged, set forth, or referred to, or on which the claim is based, or out of which the claim arises, register a notice of the claim in the manner set out in subsection 6, and such registration constitutes a notice of the claim for a further period of forty years.

Registering
notice of
claim

(8) Before a notice expires, it may be re-registered and so on from time to time as long as the person registering the notice or a person claiming under him deems it necessary, and every re-registered notice continues in force for forty years from the date of the registration thereof.

Re-regis-
tration

(9) An instrument, the entry of which has been ruled off the abstract index as provided by section 73 of *The Registry Act*, does not constitute an instrument under this Act upon which a claim shall be based, or one out of which a claim may arise affecting the land in respect of which the entry of the instrument has been ruled off, notwithstanding that the claim is acknowledged, referred to or set forth in any such instrument.

Claim not to
be founded
on certain
instruments
R.S.O. 1960,
c. 348

(10) Notwithstanding subsections 6, 7 and 8, any person having a claim against land which by the provisions of this Act would have expired, may register notice of the claim at any subsequent time if there has been no intermediate registered dealing with the land, and such registration has the same effect as if done within the time limited by subsections 6, 7 and 8.

Time for
registering
notice

(11) The registration of a notice as provided in subsections 6, 7, 8 and 10, does not in any way validate a claim that has otherwise expired.

Registration
not to vali-
date expired
claim

(12) The registrar is entitled to a fee of \$1 for registering the notice referred to in subsections 6, 7, 8 and 10.

Fees

(13) The provisions of this Act have effect notwithstanding any statute or any rule made under the authority of a statute or any rule of law, and, where there is any conflict between the provisions of this Act and any such statute, rule or rule of

Act to
prevall over
other pro-
visions

law, the provisions of this Act prevail. R.S.O. 1950, c. 186, s. 2 (2-12).

Act not to
apply to land
titles offices

3. This Act does not apply to land entered on the register in a land titles office, nor does this Act affect the interest of the Crown in land where no patent has issued. R.S.O. 1950, c. 186, s. 3.
