

1937

c 171 Investigation of Titles Act

Ontario

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Bibliographic Citation

Investigation of Titles Act, RSO 1937, c 171

Repository Citation

Ontario (1937) "c 171 Investigation of Titles Act," *Ontario: Revised Statutes*: Vol. 1937: Iss. 2, Article 30.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1937/iss2/30>

CHAPTER 171.

The Investigation of Titles Act.

1. In this Act,—

Inter-
pretation.

- (a) "Claim" shall mean and include any 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 shall without limiting the generality of the foregoing, include mortgages, liens, easements, agreements, contracts, options, charges, annuities, leases, dower rights whether inchoate or otherwise, and restrictions as to use of land or other incumbrance affecting land, but shall not include any highway, public lane, unregistered right of way or other easement or right which any person is openly enjoying and using or any claim imposed by any statutory enactment;
- (b) "Instrument" shall include every Crown grant, and every 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, every 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 every other certificate of judgment or order of any court affecting any interest in or title to land, and 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,

"Claim."

"Instru-
ment."Rev. Stat.,
c. 163.

charged, incumbered or affected in any wise, affecting land in Ontario;

"Land." (c) "Land" shall include lands, tenements, hereditaments and appurtenances and any estate or interest therein;

"Owner." (d) "Owner" shall mean and include 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. 1929, c. 41, s. 2.

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 such 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 which has been in existence longer than the said forty year period shall affect such land, unless such claim shall have been acknowledged or specifically referred to or contained in an instrument registered against such land within the said forty year period or unless a notice is registered against such land as provided in subsections 5, 6, 7 and 9.

(2) 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 said books from time to time during the said 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 said land shall not be affected by failure to register the notice as required by subsection 1.

(3) Notwithstanding the provisions of subsection 1, it shall not be 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.

(4) 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 period of forty years mentioned in subsection 1 shall run from the date of such alienation.

(5) Upon the 1st day of June, 1929, and within one year thereafter any person having a claim against any land, which claim has been in existence for forty years or more prior to the coming into force of this Act but in respect to which claim no notice of its existence has been given, acknowledged, or specifically referred to or contained in an instrument

registered against such land within forty years prior to the coming into force of this Act, or any 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 such claim, verified by the affidavit of the person registering such notice.

(6) Any person having a claim against land, or any person on his behalf, may within forty years from the date of the registration of any instrument in which the said claim is acknowledged, set forth, or referred to, or on which the said claim is based, or out of which the said claim arises, register a notice of such claim in the manner set out in subsection 5, and such registration shall constitute a notice of such claim for a further period of forty years.

Registering
notice of
claim.

(7) Before a notice expires it may be re-registered and so on from time to time as long as the person registering the same or any person claiming under him deems it necessary, and every re-registered notice shall continue in force for forty years from the date of the registration thereof. 1929, c. 41, s. 3 (1-4).

Re-registra-
tion.

(8) An instrument, the entry of which has been ruled off the abstract index as provided by section 71 of *The Registry Act* shall 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 lands in respect of which the entry of the instrument has been ruled off, notwithstanding that such claim shall be acknowledged, referred to, or set forth in any such instrument. 1930, c. 30, s. 2.

Claim not
to be founded
on certain
instruments.
Rev. Stat.
c. 170.

(9) Notwithstanding the provisions of subsections 5, 6 and 7, any person having a claim against land which by the provisions of this Act would have expired, may register notice of such claim at any subsequent time provided there shall have been no intermediate registered dealing with such land, and such registration shall have the same effect as if done within the time limited by subsections 5, 6 and 7.

Time for
registering
notice.

(10) The registration of a notice as provided in subsections 5, 6, 7 and 9 shall not in any way validate a claim which has otherwise expired.

Registration
not to vali-
date expired
claim.

(11) The registrar shall be entitled to a fee of \$1 for registering the notice referred to in subsections 5, 6, 7 and 9.

Fees.

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

Act to
prevail over
other pro-
visions.

rule or rule of law, the provisions of this Act shall prevail.
1929, c. 41, s. 3 (5-8).

Act not to
apply to land
titles offices.

3. This Act shall not apply to land entered on the register in any land titles office, nor shall this Act affect the interest of the Crown in land where no patent has issued. 1929, c. 41, s. 4; 1930, c. 30, s. 3.
