

1914

c 105 Fraudulent Conveyances Act

Ontario

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CHAPTER 105.

An Act respecting Voluntary and Fraudulent Conveyances.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Fraudulent Conveyances Act*. 1 Geo. V. c. 24, s. 1.

INTERPRETATION.

Interpretation.

2. In this Act,

"Conveyances."

(a) "Conveyance" shall include gift, grant, alienation, bargain, charge, incumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise.

"Personal property."

(b) "Personal Property" shall include goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in any bank, company or corporation, and any interest therein.

"Real property."

(c) "Real Property" shall include lands, tenements, hereditaments, and any estate or interest therein. 1 Geo. V. c. 24, s. 2.

CONVEYANCES IN FRAUD OF CREDITORS.

When conveyances declared void as against creditors. 13 Eliz., c. 5, s. 1.

3. Every conveyance of real property or personal property and every bond, suit, judgment and execution at any time had or made or at any time hereafter to be had or made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures shall be null and void as against such persons and their assigns. 1 Geo. V. c. 24, s. 3.

Saving as to conveyances by tenants in tail. 13 Eliz., c. 5, s. 3.

4. Where a conveyance made by a tenant in tail is impeached under section 3, it shall nevertheless be as valid as against the heirs in tail and all persons entitled in reversion or remainder as if this Act had not been passed. 1 Geo. V. c. 24, s. 4.

5. Section 3 shall not extend to any estate or interest in real property or personal property conveyed upon good consideration and *bona fide* to any person not having at the time of the conveyance to him notice or knowledge of such intent. 1 Geo. V. c. 24, s. 5.

Saving as to conveyances made *bona fide* and for good consideration. 13 Eliz. c. 5, s. 5.

6.—(1) Section 3 shall apply to all conveyances executed with the intent in that section set forth notwithstanding that the same may be executed upon a valuable consideration and with the intention, as between the parties to the same, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless the same is protected under section 5 by reason of *bona fides* and want of notice or knowledge on the part of the purchaser.

How far valuable consideration and intent to pass interest to avail.

(2) This section shall not apply to any instrument executed before the 2nd day of March, 1872. 1 Geo. V. c. 24, s. 6.

Saving.

CONVEYANCES IN FRAUD OF PURCHASERS.

7. Every conveyance of real property had or made or at any time hereafter to be had or made with intent to defraud and deceive such person as may have purchased or shall afterwards purchase such real property shall be deemed only as against that person and his assigns, and all persons lawfully claiming under him, or them, who have purchased or shall hereafter purchase for money or other good consideration the same real property or any part thereof to be null and void. 1 Geo. V. c. 24, s. 7.

When fraudulent conveyances declared void as against purchasers. 27 Eliz. c. 4, s. 1.

8. Section 7 shall not extend to or be construed to impeach, defeat, make null or void any conveyance of real property made upon or for good consideration and *bona fide*. 1 Geo. V. c. 24, s. 8.

Saving as to conveyances made on good consideration. 27 Eliz. c. 4, s. 3.

9.—(1) If any person makes a conveyance of real property with any clause, provision, article, or condition of revocation, determination or alteration at his will or pleasure, and after such conveyance bargains, sells, demises, grants, conveys or charges the same or any part thereof to any person for money or other good consideration paid or given, such first conveyance not being by him revoked, made void, or altered according to the power and authority so reserved or expressed therein, then such first conveyance as touching the real property so after bargained, sold, conveyed, demised or charged against the bargainees, vendees, lessees, grantees, their heirs, successors, and their assigns and against every person lawfully claiming under them, shall be null and void.

Conveyances made revocable of lands afterwards sold for good consideration to be void against the purchaser. 27 Eliz. c. 4, s. 1.

(2) No lawful mortgage made *bona fide*, and without fraud or covin, upon good consideration shall be impeached or impaired by force of this Act, but it shall have the like force and effect as if this Act had not been passed. 1 Geo. V. c. 24, s. 9.

Saving as to mortgages.

Absence of Valuable Consideration.

Validity of
voluntary
conveyance,
etc., executed
in good faith
and duly
registered.

Mere absence
of valuable
consideration.

Effect of
preceding
section.

10. Nothing in sections 7 to 9 shall extend to a conveyance which is executed in good faith and duly registered in the proper registry office or land titles office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to any subsequent purchaser from the same grantor of the same real property or any part thereof, nor shall the same merely by reason of the absence of a valuable consideration be null and void as against such purchaser or his heirs, executors, administrators or assigns or any person claiming by, from or under any of them. 1 Geo. V. c. 24, s. 10.

11. Nothing in the next preceding section shall have the effect of making valid any instrument which is for any reason, other than or in addition to the absence of a valuable consideration, void under sections 7 to 9 or otherwise; nor have the effect of making valid any instrument as against a purchaser who had, before the 28th day of February, 1868, entered into a binding contract for or received his conveyance upon such purchase. 1 Geo. V. c. 24, s. 11.
