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c 41 The Family Law Reform Act, 1975

Ontario

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CHAPTER 41

An Act to reform certain Laws founded upon Marital or Family Relationships

Assented to July 3rd, 1975

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

1.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

Unity of
legal
personality
abolished

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person.

Capacity of
married
person

(3) Without limiting the generality of subsections 1 and 2, *Idem*

- (a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;
- (b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman;
- (c) except as agreed between them, where a husband or wife contributes work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of a property in which the other has or had a property interest, the husband or wife shall not be disentitled to any right to compensation or other interest flowing from such contribution by reason only of the relationship of husband and wife or that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances;

(d) the rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that,

(i) the fact that property is placed or taken in the name of a husband and wife as joint tenants shall be *prima facie* proof that a joint tenancy of the beneficial interest in the property is intended, and

(ii) money on deposit in a bank, trust company, loan corporation or similar institution in the name of both a husband and wife shall be deemed to be in the name of the husband and wife as joint tenants for the purposes of subclause i.

Purpose of
of s 1:
subss. 1 and 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed.

Application
of s 1:
restraint
upon alien-
ation or
anticipation

2.—(1) Section 1 does not apply to interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any property by virtue of an instrument executed before this Act comes into force and for the purpose,

(a) a provision contained in an instrument made in exercise of a special power of appointment shall be deemed to be contained in that instrument only and not in the instrument by which the power was created; and

(b) the will of a testator shall be deemed to be an instrument executed on the day of his death.

Idem:
domicile

(2) Section 1 does not apply to affect the determination of domicile for any purpose.

Idem:
agency of
necessity

(3) Section 1 does not apply to affect the right of a wife to pledge her husband's credit for necessaries.

Actions
between
parent and
child

3. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child.

4. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. Recovery for prenatal injuries

5. Subclause i of clause b of section 214 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 224, s. 214 (b) (i), repealed

6. Sections 2 to 11 and section 13 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed. R.S.O. 1970, c. 262, ss. 2-11, 13, repealed

7. Subsection 4 of section 2 of *The Negligence Act*, being chapter 296 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 296, s. 2(4), repealed

8. Section 7 does not apply in respect of actions commenced before this Act comes into force. Application of s. 7

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

10. This Act may be cited as *The Family Law Reform Act, 1975*. Short title

