



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. X.

AN ACT to amend the law of Vendor and Purchaser, and further to simplify title to Land.

[Assented to, 3rd July, 1878.]

WHEREAS it is expedient to facilitate the transfer of land by means of certain amendments in the law of vendor and purchaser; Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Imperial Act, 37 & 38 Vic.,
c. 78.

1 IN the completion of any contract of sale of land made after the first day of September, 1878, and subject to any stipulation to the contrary in the contract, forty years shall be substituted as the period of commencement of title which a purchaser may require in place of sixty years, the present period of such commencement; nevertheless, earlier title than forty years may be required in cases similar to those in which earlier title than sixty years may now be required.

Forty years substituted for
sixty years as the root of
title.

2 IN the completion of any such contract as aforesaid, and subject to any stipulation to the contrary in the contract, the obligations

Rules for regulating obligations and rights of vendor and purchaser.

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tions and rights of vendor and purchaser shall be regulated by the following rules, that is to say:—

First.—Under a contract to grant or assign a term of years, whether derived or to be derived out of a freehold or leasehold estate, the intended lessee or assign shall not be entitled to call for the title to the freehold.

Second.—Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Council, or statutory declarations twenty years old at the date of the contract, shall, unless and except so far as they shall be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions.

Third.—The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title shall not be an objection to title in case the purchaser will on the completion of the contract have an equitable right to the production of such documents.

Fourth.—Such covenants for production as the purchaser can and shall require, shall be furnished at his expense, and the vendor shall bear the expense of perusal and execution on behalf of, and by himself, and on behalf of and by necessary parties other than the purchaser.

Fifth.—Where the vendor retains any part of an estate, to which any documents of title relate, he shall be entitled to retain such documents.

3 TRUSTEES who are either vendors or purchasers may sell or buy without excluding the application of the second section of this Act.

Trustees may sell, &c., notwithstanding rules.

4 THE legal personal representative of a mortgagee of a freehold estate, may on payment of all sums secured by the mortgage, convey the mortgaged estate, whether the mortgage be in form, an assurance subject to redemption, or an assurance upon trust.

Legal personal representative may convey legal estate of mortgaged property.

5 UPON the death of a bare trustee of any corporeal or incorporeal hereditament, of which such trustee was seised in fee simple, such hereditament shall vest like a chattel real in the legal personal representative from time to time of such trustee.

Bare legal estates in fee simple to vest in executor or administrator.

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6 WHEN any freehold hereditament shall be vested in a married woman as a bare trustee, she may convey the same as if she were a *feme sole*.

Married woman who is a bare trustee may convey, &c.

7 AFTER the commencement of this Act, no priority or protection shall be given or allowed to any estate, right, or interest in land by reason of such estate, right, or interest being protected by or tacked to any legal or other estate or interest in such land; and full effect shall be given in every Court to this provision, although the person claiming such priority or protection, as aforesaid, shall claim as a purchaser for valuable consideration and without notice. Provided always that this section shall not take away from any estate, right, title, or interest, any priority or protection which but for this section would have been given or allowed thereto as against any estate or interest existing before the commencement of this Act.

Protection and priority by legal estates and tacking not to be allowed.

8 WHERE the will of a testator devising land in Western Australia has not been registered within the period allowed by law in that behalf, an assurance of such land to a purchaser or mortgagee by the devisee or by some one deriving title under him shall, if registered before, take precedence of and prevail over any assurance from the testator's heir at law.

Non-registration of will in Western Australia cured in certain cases.

9 A VENDOR or purchaser of real or leasehold estate, or their representatives respectively, may at any time or times, and from time to time apply in a summary way to any Judge of the Supreme Court in its Equitable Jurisdiction in Chambers, in respect of any requisitions, or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract) and the judge shall make such order upon the application as to him shall appear just, and shall order how and by whom all or any of the costs of and incident to the application shall be borne and paid.

Vendor or purchaser may obtain decision of a Judge in Chambers as to requisitions or objections, or compensation, &c.

10 This Act may be cited as "The Vendor and Purchaser Act, 1878."

Short Title.

In the name and on behalf of the Queen I hereby assent to this Act.

H. ST. GEORGE ORD, Governor.