

LAWS OF DOMINICA

REAL PROPERTY ACT

CHAPTER 54:02

**Act
6 of 1873
Amended by
23 of 1958**

Current Authorised Pages
Pages Authorised
(inclusive) by L.R.O.
1-8 1/1991

L.R.O. 1/1991

**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 54:02**REAL PROPERTY ACT****ARRANGEMENT OF SECTIONS****SECTION**

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CHAPTER 54:02

REAL PROPERTY ACT

1961 Ed.
Cap. 219.
6 of 1873.

AN ACT relating to real property.

Commencement.

[4th August 1873]

Short title.

1. This Act may be cited as the –

REAL PROPERTY ACT.

Deed to be
signed by
conveying party.

2. Every deed shall be signed by the conveying party, and shall be attested by at least one witness, but no particular form of attestation shall be necessary.

Indenting.

3. Indenting shall not be necessary.

Acknowledg-
ment of receipt
of consideration
money.

4. An acknowledgment of the receipt of the consideration money contained in the body of a deed shall be as valid and effectual in every respect as if the same had also been endorsed thereon.

Partition, etc., of
land.

5. No partition, or exchange, lease, assignment, or surrender of any land shall be valid unless the same is made by deed.

Disclaimer of
land.

6. No disclaimer of any land shall be valid unless the same is made by deed, or by matter of record.

What may pass
by deed.

7. Every chose in action, right of entry for conditions broken, contingent remainder, and any contingent or future estate, right or interest in any real or personal property may be conveyed or assigned by deed.

Livery of seisin
unnecessary.

8. All lands within the State shall be deemed and taken to lie in grant, and a single deed, without livery of seisin, or prior lease heretofore or hereafter executed within the State, shall be valid and effectual to pass any land which might have been conveyed by lease and release.

Direct convey-
ance of land.

9. When any land is conveyed directly and immediately to any person or body corporate, the whole legal and equitable estate therein shall vest in such person or body corporate.

- 10.** When any land is conveyed to any person, or body corporate, to the use of, or in trust for any other person, the whole legal estate shall vest in the person, or body corporate to whom the same has been conveyed, subject to a trust for the benefit of such other person. Conveyance of land in trust.
- 11.** No conveyance shall create any estate by wrong, or work forfeiture. Conveyance not to create estate by wrong, etc.
- 12.** Any person not named as a party in any deed may take an immediate benefit thereby as he might under a deed poll. Benefit as under deed poll.
- 13.** An executor or administrator of a deceased mortgagee shall have power, on payment to him of the moneys due on account of the mortgage debt and interest, to convey by deed the property comprised in the mortgage as fully and effectually as the heirs or devisees of the mortgagee, or their heirs and assigns, might have done. Power to executor of mortgagee.
- 14.** When any land is conveyed, transferred, or devised to two or more persons in their own right, such persons shall be deemed and taken to be tenants in common, unless expressly declared to be joint tenants; except that all land conveyed, transferred, or devised to executors or trustees, as such, shall be held by them as joint tenants. Tenants in common.
Joint tenants.
- 15.** A condition or covenant not to assign, or underlet, or do any act, without licence shall not be released or determined by such licence. Condition or covenant not to assign, etc.
- 16.** No estate of fee tail shall be created, after the passing of this Act, by any deed, or by any will or other instrument, otherwise than by an express limitation to a person and the heirs of his body, or the heirs, male or female, of his body, as the case may be. Estates tail.
- 17.** All the provisions (save and except the provisions contained in section 5) of an Act passed by the Governor and General Council and Assembly of the Leeward Islands, dated the 21st day of June, 1705, entitled, "An Act for the supplying the want of Fines and Recoveries in these Islands, and for making any deed or deeds, duly executed and acknowledged before any of Her Majesty's Justices of the Court of Common Pleas in the Kingdom of England or Ireland, or any of these Islands, equivalent to a fine and recovery, or fines and recoveries, duly and regularly levied and suffered in any of Her Majesty's Courts of Record in Westminster," (set out in the Schedule hereunder) shall extend and apply to the State. Fines and recoveries.

SCHEDULE

AN ACT for the supplying the Want of Fines and Recoveries in these Islands, and for making any Deed or Deeds duly executed and acknowledged before any of Her Majesty's Justices of the Court of Common Pleas in the Kingdom of England or Ireland, or of any of these Islands, equivalent to a Fine and Recovery or Fines or Recoveries duly and regularly levied and suffered in any of Her Majesty's Courts of Record at Westminster.

[Dated this 21st day of June, 1705]

Preamble.

WHEREAS fines with proclamations and common recoveries are become the common assurances of Your Majesty's Kingdom of England, at least such a necessary part thereof as without them the inheritance of femes coverts, or their right or title to dower, or any other estate of freehold, nor estates of tenants in tail general or special, or the reversion and reversions, remainder and remainders, thereupon depending, cannot be barred.

2. AND WHEREAS such fines cannot be duly levied in these Islands for want of proper offices, or common recoveries well suffered for want of set days for the return of writs, or for the appearance of the parties to such recoveries, the Courts of law in these Islands usually holding but one day or two at the most; for remedying which mischief, and to the intent that the want of fines and recoveries in these Islands may be effectually supplied by making other conveyances, attended with particular circumstances hereinafter mentioned, equivalent thereunto.

Deeds acknowledged by the parties from whom the interest passes before the justices of the Common Pleas in England, etc., shall bar femes coverts and tenants in tail, as fully as any fine and recovery.

3. We your Majesty's most dutiful and loyal subjects do pray Your most Excellent Majesty that it may be enacted, and be it and it is hereby enacted by the Commander-in-Chief of these Your Majesty's Leeward Caribee Islands in America, the General Council and General Assembly of the said Islands now met at Nevis, and by the authority of the same, That a deed or deeds in due form of law made and executed by the husband and wife of the plantations, lands, and tenements, and other hereditaments of the wife, or of any plantation, lands, tenements, and hereditaments whereof the husband was solely and in his own right seised at any time during the coverture, or whereof the husband or husband and wife seised in right of the wife, or the husband jointly with the wife, or by tenant in tail general or special, and by the party or parties, and each of them, from whom the interest passes, acknowledged before some of Her Majesty's Justices of the Court of Common Pleas in the Kingdom of England or Ireland, or of any of Your Majesty's Leeward Caribee Islands wherein such plantation, lands, tenements, and hereditaments do lie, shall to all intents and purposes be as effectual and valid in the law to pass all the estate, right, title, interest and

claim of the party or parties, and of each of them, to such deed or deeds in or to all or any the plantation or plantations, lands, tenements, or hereditaments, by such deed or deeds granted, conveyed or made over, or thereby intended to be granted, conveyed, or made over to the person or persons, bargainee or bargainees, grantee or grantees, in the said deed or deeds mentioned, their heirs and assigns for ever, to whom or to whose use any estate in such plantation or plantations, lands, tenements, or hereditaments, is by the said deed or deeds limited, bargained, sold, granted, or conveyed, according to the several limitations in the said deed or deeds contained, as if the party or parties to the said deed or deeds, from whom the interest moves, had levied a fine or fines with proclamations, or suffered a common recovery or recoveries of such plantation or plantations, lands, tenements, and other hereditaments in any of Their Majesty's Courts of Record at Westminster, and duly executed deeds leading the use of such fine or fines, or declaring the uses of such recovery or recoveries to be to such bargainee or bargainees, grantee or grantees, their heirs and assigns for ever, to whom or to whose use such plantation or plantations, lands, tenements, and other hereditaments are by the deed or deeds so to be executed and acknowledged as is above-mentioned limited and conveyed, or that the same and every part thereof had been bargained, sold, conveyed, or set over by any the firmest deed or deeds, conveyance or conveyances, assurance or assurances of the law, that could be advised or devised by counsel learned in the law.

4. Provided always, That the wife, who is party to any such deed or deeds, be of full age at the time of the execution thereof, and be privately and apart examined by the Judge before whom such deed or deeds is acknowledged whether she do execute the same freely, voluntarily, and without fear, threats or compulsion of or by her husband used, which examination of the wife shall be endorsed together with the acknowledgment of the party or parties from whom the interest by the said deed or deeds pass; and such acknowledgments shall be subscribed by the Judge before whom the acknowledgment of such deed or deeds is taken and by and before whom such wife is privately examined.

Every wife party to such deed to be of age, and examined apart whether she executes the same freely. Such examination to be endorsed on the back of the deed, and subscribed by the Judge.

5. * And be it further enacted by the authority aforesaid, That all and every deed or deeds so executed and acknowledged as aforesaid shall be enrolled at length in the Secretary's or Register's office of that Island wherein the estate so granted or conveyed lies (if the said deed or deeds be executed and acknowledged in any of these Your Majesty's Leeward Caribbee Islands) within six calendar months after the acknowledgment of such deed or deeds; and in case the said deed or deeds shall be executed and acknowledged within either of Your Majesty's Kingdoms of England or Ireland, that the same shall be enrolled at length in the High Court of Chancery of that kingdom wherein the

Deed to be enrolled at length, within six months, in the secretary's office, if in one of the Islands. The record to be admitted as evidence if the original is mislaid.

* Repealed by section 45 of 14/1881.

same was executed and acknowledged within six calendar months after the acknowledgment thereof; and that the acknowledgment of such deed or deeds so subscribed by the Judge before whom the same was taken (as before is directed) shall be a sufficient proof of the due execution of the said deed or deeds; and the record, or on exemplification or attested copy of such deed or deeds, shall be admitted and allowed to be given in evidence upon any trial of law or hearing in equity where the original deed or deeds is or are mislaid and cannot be procured, any law, statute or usage to the contrary in any ways notwithstanding.
