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SECTION

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CHAPTER 228A

LAND (ADJUDICATION OF RIGHTS AND INTERESTS)

An Act to make provisions respecting the adjudication of titles to land.

1979-6.
1979-44.
1980-2.
1988-15.
1990-20.

[1st February, 1988]

Commence-
ment.
1988/5.

1. This Act may be cited as the *Land (Adjudication of Rights and Interests) Act*.

Short title.

2. For the purposes of this Act

Interpre-
tation.

"adjudication record" means a record compiled in accordance with section 26;

"attorney-at-law" has the meaning assigned to it by section 2 of the *Legal Profession Act*;

Cap. 370A.

"charge" means an interest in land securing the payment of money or money's worth or the fulfilment of a condition, and includes a sub-charge and the instrument creating a charge;

"Chief Surveyor" has the meaning assigned to it by section 2 of the *Land Surveyors Act*;

Cap. 370.

"court" means the High Court;

"Commissioner" means a Commissioner of titles appointed under section 3;

"deal with" means to dispose of land or an interest in land, whether by an instrument *inter vivos* or by will.

"demarcation plan" means a plan prepared by the Chief Surveyor under section 8;

"interest in land" includes any right or interest in or over land which is capable of being recorded under this Act;

"land" means the surface of the earth, the space above it and the things below it, and includes

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- (a) houses and other structures whatsoever and parts of structures, whether the division is horizontal, vertical or made in any other way;
- (b) mines and minerals, whether or not held apart from the surface;
- (c) land covered by water;
- (d) a legal estate, whether or not it gives a right to possession of the soil;
- (e) a legal interest in land;
- (f) and equitable interest in land; and
- (g) an undivided share in land.

"lease" includes a sub-lease;

"local newspaper" means a newspaper printed and published in Barbados;

"Minister" means the Minister responsible for Lands;

"parcel" means a piece of land which is separately shown on a demarcation plan and given a number for the purposes of adjudication under this Act;

Cap. 229. "Registrar" means the Registrar of Titles appointed under section 5 of the *Land Registration Act*, and includes a Deputy or Assistant Registrar;

"registration district" or "district" means an area into which Barbados is divided in accordance with section 10;

Cap. 229. "Registration Officer" has the meaning assigned to it by section 5 of the *Land Registration Act*.

Appoint-
ment of
Commission-
ers and Reg-
istration
Officers.

3. (1) Subject to this section, the Governor-General shall, on the advice of the Prime Minister, appoint

- (a) such number of Commissioners of Titles; and
- (b) such number of full-time and part-time Registration Officers,

as are necessary for carrying out the purposes of this Act.

1979-44. (2) A person may be appointed a Commissioner of Titles if he has practised as an attorney-at-law for not less than 7 years.

(3) A person may be appointed a Registration Officer if he has practised as an attorney-at-law for not less than 5 years.

(4) A person appointed as a part-time Registration Officer may not perform functions under this Act respecting any matter in which he is concerned as an attorney-at-law or otherwise.

4. (1) A Commissioner shall inquire into and adjudicate claims to title to land and rights and interests in land situated in the registration district for which he is appointed, and exercise a general supervisory control over all such adjudications. Power and duties of Commissioner.

(2) The Commissioner shall adjudicate

(a) any dispute respecting the ownership of any land, or any interest in land, or the boundaries of any land within a registration district;

(b) any dispute respecting a lease, charge or other encumbrance, where the Registration Officer or Chief Surveyor is unable to resolve that dispute;

(c) any application

1979-44.

(i) respecting an act or decision of the Chief Surveyor under the powers conferred on him by section 8 or 9, or

(ii) submitted under section 31;

(d) any application for the rectification of an entry made by a Registration Officer in an adjudication record.

(3) For the purpose of adjudicating claims, disputes or applications under this section, the Commissioner is competent to administer oaths, take affidavits, issue summonses, notices or orders requiring the attendance of such persons and the production of those documents he considers necessary. 1988-15.

5. Subject to the *Town and Country Planning Act*, the Commissioner may by order partition land Commissioner may partition land. Cap. 240.

(a) in accordance with the rights of persons to their shares therein; or

(b) in the case of a recommendation made under section 9, in any manner he considers expedient; but where the Commissioner is satisfied that an order for partition may lead to uneconomic or undesirable fragmentation of the land he may order a sale of the land and a division of the proceeds of sale.

Directions
by Commis-
sioner.

6. The Commissioner may issue directions

- (a) relating to the procedures to be followed in effecting the demarcation or registration of land;
- (b) requiring the owner of land to demarcate the boundaries of that land in accordance with the *Land Surveyors Act*.

Cap. 370.

Powers
and
duties of
Registra-
tion
Officer.

7. (1) A Registration Officer shall

- (a) assist the Commissioner in carrying out the purposes of this Act;
- (b) investigate titles to land submitted under paragraph (a) of section 11; and
- (c) prepare adjudication records.

(2) Nothing in this Act prevents the Commissioner from performing any of the functions of a Registration Officer.

Powers and
duties of
Chief Sur-
veyor.

8. (1) Where an order is submitted under section 10 to the Chief Surveyor, he shall

- (a) determine the boundaries of any land, public roads, water, or graveyards;
- (b) submit to the Commissioner any boundary dispute that he is unable to settle;
- (c) demarcate the boundaries of all waste or unoccupied land; and
- (d) make a demarcation plan of the registration district showing every separate parcel in that district.

(2) For the purpose of carrying out his functions under subsection (1), the Chief Surveyor may, at any reasonable time, enter upon any land within a registration district and may summon any person who can give information regarding the boundaries of any such land to point out the boundaries.

(3) The Chief Surveyor shall mark the separate parcels referred to in subsection (1) with a distinguishing number or in any other manner he thinks fit.

Special
powers of
Chief Sur-
veyor.

9. (1) The Chief Surveyor may, with the agreement of the owners concerned, adjust the boundaries of any land in a registration district, or recommend to the Commissioner the reallocation of the same to ensure the more beneficial occupation thereof or to effect a more suitable sub-division thereof.

(2) The Chief Surveyor may demarcate a right of way that is necessary for the giving of access to a public road from any landlocked parcel of land.

(3) The Chief Surveyor may, with the agreement of the owners thereof, group in one or more parcels separate parcels if such grouping does not adversely affect parcels of other owners.

(4) A Commissioner may award such compensation as may to him appear just to any person who has suffered loss of land as a result of any action taken or decision made by the Chief Surveyor under this section. 1988-15.

10. (1) The Minister may by order

- (a) divide Barbados or any part thereof into land registration districts; Land registration districts.
- (b) distinguish a land registration district by name or number;
- (c) vary the boundaries of a district; or
- (d) classify titles to land according to the origin of such titles. 1988-15.

(2) Any order made under this section shall be published

- (a) in each of the local newspapers; and
- (b) in the *Official Gazette*,
once in each of 3 consecutive weeks.

(3) An order made under subsection (1)

- (a) shall define the situation and boundaries of a district by means of a plan or description;
- (b) may provide that
 - (i) the demarcation of parcels,
 - (ii) the registration of land, and
 - (iii) the presentation of claims to land and interests in land within that district shall begin at the time specified in the order; and
- (c) may include such supplemental and consequential provisions as are necessary for giving effect to the order.
- (4) A copy of an order made under this section shall be submitted to
 - (a) the Commissioner for the district specified in the order;

- (b) the Registrar; and
- (c) the Chief Surveyor.

Publica-
tion and
contents
by notice of
Commis-
sioner.

11. Where any order is submitted under section 10 to the Commissioner for the district specified in the order, he shall prepare and publish in 2 consecutive issues of the *Official Gazette* and in 2 consecutive issues of each of the local newspapers a notice

Cap. 236.

- (a) requiring every person who claims title to any land or any interest in land in the district under a document of title, whether or not that document is recorded under the *Property Act*, to present his claim either in person or through his attorney-at-law to a Registration Officer for that district;
- (b) requiring every person, claiming to be the owner of land or any interest in land in that district by virtue of inheritance, devise, purchase, adverse possession, prescription or otherwise, but having no document of title thereto, to apply either in person or through his attorney-at-law to the Commissioner for a declaration of title under this Act;
- (c) requiring every person, being a co-owner of land in that district desiring to partition the land, to apply either in person or through his attorney-at-law to the Commissioner, in such form as the Commissioner approves, for partition of the land; and

(d) specifying

- (i) the period within which any document or application is to be submitted, and**
- (ii) the date on which a list of owners is to be published by the Registration Officer.**

12. (1) The Chief Surveyor shall, at least 14 days before demarcation is begun, give to the persons likely to be affected thereby, a notice in writing specifying the intended time and place of demarcation or registration.

Notice of
demarcation
or registra-
tion.

(2) A notice given under subsection (1) shall require every claimant to indicate the boundaries affected by his claim in the manner specified in the notice.

13. (1) If the Commissioner is satisfied that any person who has not made a claim has a claim to any land or interest in land within a registration district, he may, in his discretion, proceed as if a claim had been made on his behalf and may call upon the Registrar of the Supreme Court to supply him with a certified copy of any document to title relevant to the claim.

Safeguarding
of rights of
absent per-
sons and
minors.

(2) If the Commissioner has reason to believe that a minor has a claim to any interest in land and such minor has no person to represent him, he shall appoint a person to represent that minor and shall proceed as if a claim had been made on the minor's behalf.

14. Where a person enjoys rights or interests in or over the land of another person, he may make an application to the Commissioner for a declaration of

Declaration
of rights
over the
land of
another
person.

- (a) the limits within which those rights or interests may be exercised;**
- (b) the extent to which those rights or interests may be dealt with; and**
- (c) any other particulars that are necessary for the purpose of defining the nature, incidence and extent of those rights or interests.**

Adjudica-
tion respect-
ing co-
owners.

15. Where land or an interest in land is owned concurrently by two or more persons, a Registration Officer shall investigate, and the Commissioner shall determine, whether the land or interest in land is held by joint tenants or tenants in common; and where the land or an interest in land is held by tenants in common, the Commissioner shall declare the extent of the share of each tenant in common.

Claim based
on pre-
scription.

16. A claim to land or interest in land based on adverse possession or prescription is registrable under this Act.

Commence-
ment or con-
tinuation of
actions after
designation
of registra-
tion district.

17. (1) Where an area has been designated a registration district, no action respecting land or rights or interests in land in that district may, except with the written consent of the Registration Officer for that district, be commenced in any court before compilation of the register of title for that district is completed.

(2) Where an action respecting land or rights or interests in land in a registration district was begun before the expiration of the period within which a document is to be submitted under section 11, the adjudication of title to that land or those rights or interests in land shall not be begun before the action is determined.

(3) An action that has not been completed before adjudication is begun shall, unless the Commissioner otherwise directs, be stayed.

Cap. 236.

(4) No instrument or other document relating to land or an interest in land in a registration district shall be recorded under the *Property Act*, before the completion of the adjudication record for that district unless notice in writing has previously been given to the Commissioner.

Hearing of
claims.

18. (1) Where a claim to title to land or any interest in land is in dispute or a petition is submitted to the Commissioner for adjudication or inquiry under section 4, he shall serve a notice on the parties and all other interested persons.

(2) A notice referred to in subsection (1)

(a) shall be published in 1 issue of the *Official Gazette*, and 2 issues of each of the local newspapers; and

(b) shall specify the date of the hearing.

(3) A hearing shall not be held before a period of 30 days from the service of the notice under subsection (1) has elapsed.

19. The Commissioner may receive in evidence any testimony, statement, document or information relating to a matter under adjudication. Evidence.

20. (1) A person who submits an application or claim to the Commissioner or a Registration Officer under section 11 shall present, with the application or claim, all the documents, plans or other evidence relied on in support of the claim or application within the time specified in a notice under that section or such longer time as the Commissioner permits. Documents supporting applications and claims.

(2) Every plan required for the purposes of this Act shall be prepared in the manner prescribed under the *Land Boundaries Act*. Cap. 228B.

(3) Notwithstanding subsection (2), the Commissioner may, after consultation with the Chief Surveyor, accept for the purpose of this Act a plan prepared prior to the commencement of the *Land Boundaries Act*.¹ 1990-20.

Cap. 228B.

21. The Commissioner or a Registration Officer shall retain all documents of title submitted to him in respect of an adjudication of title to land, and shall give an undertaking for their safe custody and production on reasonable notice until such time as a certificate of title has been issued in respect of the parcel under the *Land Registration Act*. Retention of documents.

Cap. 229.

22. (1) In the preparation of the adjudication record

(a) if the Commissioner is satisfied that a person

Principles of adjudication etc.

(i) is in open and peaceable possession of land other than land the title to which is in the Crown and has been in such possession, by himself or his predecessors in title, for such period of years as under the *Limitation and Prescription Act* would bar the right of any person to dispossess him or

Cap. 232.

¹ 1st July, 1980

- (ii) has a good documentary title to land or an interest in land and that no other person has acquired or is in course of acquiring a title thereto under any law relating to prescription or limitation, and that he would succeed in maintaining and defending such possession or title against any other person claiming the parcel,

the Commissioner shall record that person as the owner of the land or an interest in land and declare his title to be absolute;

Cap. 229.

- (b) where the Commissioner is satisfied that any land is subject to any right which is registrable under the *Land Registration Act*, as a lease, charge, easement, profit or restrictive covenant, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered;
- (c) where the Commissioner is satisfied that a person is in possession of, or has a right to, land, but is not satisfied that such person is entitled to be recorded under paragraph (a) as the owner of the land with absolute title, the Commissioner may nevertheless record that person as the owner of the land and declare his title to be provisional, in which case he shall record
 - (i) the date on which the possession of that person is to be regarded as having begun,
 - (ii) particulars of any deed, instrument or other document by virtue of which some estate, right or interest adverse to or in derogation of the title of that person might exist; and
 - (iii) any other qualification which affects the title.
- (2) For the purposes of this section
 - (a) a person is deemed to be in possession of land if he proves that he does not acknowledge the title of any other person to that land and by himself, his agent, tenant or servant, has the use of the land to the exclusion of the public;
 - (b) "good documentary title" means a title evidenced by documents which establish that a person is entitled to a legal estate in fee simple absolute in possession in land

within the meaning of that expression in the *Property Act*, and, commencing with a grant, conveyance, assignment, mortgage or specific devise which is more than 20 years old. Cap. 236.

23. (1) For the purposes of adjudication, the Commissioner shall be guided *inter alia* by the following rules

Rules to be
followed in
adjudica-
tion.

- (a) the exercise by any person of any rights or interests in or over any land shall not give rise to any presumption in his favour of any rights or interests in or over any greater amount of land than that in respect of which such rights or interests are exercised;
- (b) possession or receipt of rents and profits by any person through whom a claimant derives his title shall be deemed to have been the possession or receipt of rents and profits of the claimant;
- (c) where from the relationship of the parties or from other special circumstances it appears that the person in possession of land is or was in possession on behalf of another, his possession shall be deemed to be or to have been the possession of that other.

(2) The Commissioner shall issue a receipt for all documents produced by a claimant and retained by the Commissioner.

24. (1) Where the Commissioner is satisfied that a person is the owner of land by virtue of a document of title, he shall make a declaration of title to that effect.

Declaration
of title.

(2) A title declared under subsection (1) may be subject to such interests as are admitted by all the interested parties or proved to the satisfaction of the Commissioner to subsist in the land and in the case of partition it may be made subject to a charge for the raising of equity money.

25. The Commissioner may direct a Registration Officer to prepare an adjudication record of every parcel in respect of which

Record
respect-
ing title
adjudicated
by Commis-
sioner.

- (a) a claim to a title is submitted to him under paragraph (a) of section 11;

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- (b) a declaration of title is made under paragraph (b) of section 11;
- (c) an order for partition or order for sale is made or a disputed or doubtful claim is determined by the Commissioner.

Nature and
content of
adjudica-
tion record.

26. (1) An adjudication record shall consist of forms relating to a parcel in a registration district and contain particulars of

- (a) the number and area of the parcel shown on the demarcation plan;
- (b) the name, address and description of the owner;
- (c) any restriction on the power of the owner to deal with the parcel;
- (d) any disability of the owner;
- (e) the name and description of the guardian of an owner under a disability;
- (f) any right registrable under the *Land Registration Act*, as a lease, charge, easement, profit, restrictive covenant or other encumbrance or interest, affecting the parcel;
- (g) the name and description of every person entitled to the benefit of any interest referred to in paragraph (f) and any restriction of the power of that person to deal with the interest; and
- (h) the date on which the form is completed.

Cap. 229.

(2) A form referred to in subsection (1) shall be signed by the Registration Officer and shall, where possible, include an acknowledgement by the owner of the estate or interest in, or charge or other encumbrance on, the parcel or by the attorney-at-law for that owner that such owner accepts the record, unless the Commissioner permits that owner or his attorney-at-law to dispense with the signature.

Notice of
completion
of adjudica-
tion record
to be pub-
lished.
1990-20.

27. Where an adjudication record relating to a registration district is completed, the Commissioner shall publish a notice to that effect in the *Official Gazette* and in 1 issue of each of the local newspapers and that notice shall specify the place where, and the hours during which, that record may be inspected.

28. At any time before an adjudication record becomes final, the Commissioner may on the application of any person or of his own motion correct any errors appearing in that adjudication record.

Correction
of errors.
1990-20.

29. Subject to an appeal under this Act, registration entered in consequence of an adjudication record shall, after the expiration of 60 days from the date of a notice under section 27 be final, and the Registrar of Titles shall compile the register of titles from that record.

Finality of
registration
and con-
pilation of
register of
titles.
1990-20.

30. The adjudication records shall, unless the Commissioner otherwise directs, be open for the purposes of inspection by the public at all reasonable times.

Inspection
of adjudica-
tion records.

31. (1) Any person aggrieved by an act or decision of the Chief Surveyor or by an entry made by the Commissioner or a Registration Officer in an adjudication record may, before notice of the completion of that adjudication record has been published, make application to the Commissioner.

Appeals.

(2) A person aggrieved by a decision of the Commissioner may appeal to the court within 30 days after the publication of a notice of completion of an adjudication, or such longer period as the court allows.

32. Subject to section 13, nothing in this Act prevents the court from granting an indefeasible title to land where that land is sold by order of the court on the confession of a judgment under a mortgage made for the purpose.

Preserva-
tion of
power of
court to
grant title.

32A. A person who

Offences.

- (a) fails or refuses to comply with any directions given by the Commissioner under this Act; and
- (b) fails or refuses to comply with any requirements or any notice issued under this Act; or
- (c) wilfully neglects or refuses to answer upon oath or otherwise any question which may be lawfully put to him by the Commissioner at the time of the adjudication of a parcel in respect of which the person claims a right or interest,

1988-15.

is guilty of an offence and liable on summary conviction to a fine of \$500 or imprisonment for a term of 3 months, and to a further fine of \$100 for each day or part thereof on which the offence continues after a conviction for that offence is first obtained.

Regulations. **33.** (1) The Minister may make regulations generally for carrying out the purposes of this Act.

1988-15. (2) Regulations made under this section shall be subject to negative resolution.

Crown **34.** Subject to any modifications or qualifications provided for in the regulations in respect of prescribed fees, this Act and the Regulations bind the Crown.