

CHAPTER 22.

EXECUTION AGAINST REAL PROPERTY.

ARRANGEMENT OF SECTIONS.

SECTION.

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CHAPTER 22.

EXECUTION AGAINST REAL PROPERTY.

30 of 1906.

An Ordinance subjecting Real Estate to the payment of Debts.

[20TH DECEMBER, 1906.]

Short title.

1. This Ordinance may be cited as the Execution against Real Property Ordinance.

Liability of real estate to be seized for debts.

2. The houses, lands and other hereditaments and real estate situate or being within any part of the Colony, belonging to any person whatsoever indebted, shall be liable to, and chargeable with, all just debts, dues and demands, of what nature or kind soever, owing by, or due from any such person to Her Majesty, or any of her subjects, and shall be and are hereby made chattels for the satisfaction thereof, in like manner as personal estates within the Colony are seized, extended, sold or disposed of for the satisfaction of debts.

Liability of lands devised not subject to payment of debts.

3. When any person shall die seised of or entitled to any estate or interest in lands, tenements, hereditaments or other real estate, which he shall not by his last will have charged with, or devised subject to, or for the payment of, his debts, the same shall be assets to be administered for the payment of all just debts of such person.

4. When and as often as any writ for *feri facias* shall issue against any lands or other real estates, the same shall be in the form in Schedule A hereto with such variations as circumstances may require.

Form of writ of *feri facias*.

5. When and as often as any writ of *feri facias* shall issue against any lands or other real estate, the sheriff or other officer shall levy the debt or damages and costs mentioned in such writ according to the command thereof; and such sheriff or other officer that sold the same shall, in his own name, make unto the purchaser a deed of conveyance, therein reciting the execution or other process requiring such sale to be made, by virtue whereof the premises were sold as aforesaid, according to the form in Schedule B hereto and shall put him into possession thereof, and by such deed, being first registered at the Office of the Registrar General of the Colony, under the provisions of the Registration of Instruments Ordinance, the purchaser shall be, and is hereby declared to be, vested in as good and perfect an estate as the owner of such houses, lands, hereditaments or other real estate was seised of, or entitled unto, at or before the sale thereof as aforesaid, and as fully to all intents and purposes as if the person, against whom such writ of execution shall be granted, had sold such lands and premises to such purchaser and signed, sealed and delivered a good deed for the same, and received the consideration money himself.

Sheriff to make conveyance, etc.

Cap. 256.

6. The purchaser, his executors, administrators or assigns shall hold the premises purchased under the provisions of this Ordinance free and clear of all judgments or recognisances whatsoever, by virtue whereof no execution has been executed upon the real estate so purchased, any law, usage or custom to the contrary thereof notwithstanding.

Purchaser to hold free of judgments.

7. Any defendant whose houses, lands, hereditaments or real estate shall, or hereafter may, be taken in execution shall have free election by himself, his attorney, his executors or administrators as to what part or portion of the said houses, lands, hereditaments or other real estate shall be sold sufficient to satisfy the monies due and payable on such execution by signifying the same in writing to the officer who is to make the sale at any time, twenty days before such sale is made.

Owner to have election as to portion to be sold.

8. If any judgment or process by virtue of which such sale shall be made as aforesaid shall happen to be reversed for error, yet the said reversal shall not be given in evidence or be

Reversal of judgment not to affect *bona fide* purchase.

of force against any *bona fide* purchaser under the said judgment or process, but the said purchaser, his executors, administrators or assigns shall hold the land or other thing so *bona fide* purchased, notwithstanding a reversal of the judgment or process after his purchase, and such reversal shall only operate against the plaintiff, his executors and administrators to compel him or them to return the value to the defendant of what he lost.

Lands, etc., not to be sold if goods and chattels sufficient, nor without notice of sale.

9. Where executions shall issue under the provisions of this Ordinance against the goods and chattels, lands and tenements of any defendant, if such defendant shall have goods and chattels which may be come at and levied upon sufficient to satisfy such debt, damages and costs recovered, the lands and tenements of the said defendant shall not be levied upon; and when there shall not be goods and chattels sufficient to satisfy such debts, damages and costs, and the lands, tenements and real estate shall be taken in execution, the sheriff or other officer shall not proceed to the sale of any such land or tenement until he shall have given the notice hereinafter required, or unless by the desire of the defendant signified to him in writing for that purpose.

Three months' notice before sale of lands, etc.

10. Before any sale shall be made by virtue of this Ordinance by any sheriff, or other officer, of the houses, lands, hereditaments or other real estate of any person, save as in the last preceding section provided, he shall first advertise in three or more of the most public places of the town or place where such houses, lands, hereditaments or other real estate are, the time and place of such intended sale at least three months before he shall make the same, and then and there, between the hours of twelve and five in the afternoon, shall sell the same to the highest bidder.

Hours of sale.

SCHEDULE A.

Section 4.

19..... No.....

Form of writ of fieri facias.

IN THE SUPREME COURT OF SIERRA LEONE.

Between.....plaintiff, and.....defendant.

Elizabeth II, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland, and of all the British Dominions beyond the seas, Queen, Defender of the Faith.

Colony of Sierra Leone (to wit).

To the Sheriff of the Colony of Sierra Leone Greeting.

We command you that of the personal estate of.....in your bailiwick, if the same be sufficient, and if not, then of the personal estate, lands, tenements, hereditaments and other real estate of.....you

cause to be made the sum of £.....and also interest thereon at the rate of £4 per centum per annum from the.....day of.....19...., which said sum of money and interest were lately before us in our said Supreme Court aforesaid in a certain action wherein.....is plaintiff and.....is defendant, by a judgment of our said Court, bearing date the.....day of.....19...., adjudged to be paid by the said.....to.....together with certain costs in the said judgment mentioned, and which costs have been taxed and allowed by the Master and Registrar of our said Supreme Court at the sum of £.....s.....d., as appears by the certificate of the said Master and Registrar, dated the.....day of.....19....

And that of the said personal estate, lands, tenements, hereditaments and other real estate of the said.....in your bailiwick, you further cause to be made the sum of £.....s.....d., together with interest thereon, at the rate of £4 per centum per annum from the said.....day of.....19...., and that you have that money and interest before us in our said Supreme Court immediately after the execution hereof, to be paid to the said.....in pursuance of the said judgment.

And in what manner you shall have executed this our writ make appear to us in our said Supreme Court immediately after the execution thereof, and have there then this writ.

Witness His Lordship.....at Freetown, the.....day of.....in the year of our Lord, 19....

(Signed).....

Master of Supreme Court.

SCHEDULE B.

Section 5.

Know all men by these presents that I, X.Y., Sheriff of the Colony of Sierra Leone (or otherwise as the case may be), in consideration of.....of lawful money of this Colony to me in hand paid by Y.Z. of.....the receipt whereof I do hereby acknowledge, and thereof and therefrom do ever acquit and discharge the said Y.Z., his executors and administrators, and by virtue of the power and authority vested in me by a writ of fieri facias, a copy of which said writ is hereunto annexed (annex a true copy of the writ word for word), have granted and conveyed, and by these presents do grant and convey, unto the said Y.Z., his executors, administrators and assigns for ever all that (describe the land as the case may be), and all the estate, right, title and interest whatsoever of A.B. (insert the name of the defendant mentioned in the writ of fieri facias) into or out of the same, and every part or parcel thereof to have and to hold the said piece or parcel of land (or town lot of land) and all other the premises hereby granted and conveyed or mentioned, or intended to be hereby granted and conveyed, and every part or parcel thereof, with their and every their appurtenances, unto the said Y.Z., his executors, administrators and assigns for ever, to the only proper use and behoof of him, the said Y.Z., his executors, administrators and assigns, for ever.

Form of conveyance.

In witness whereof I, the said X.Y., the Sheriff aforesaid, have hereunto set my hand and seal the.....day of.....in the year of our Lord, 19....

(The Sheriff to put the purchaser in possession, and indorse the following on the back of the foregoing.)

Be it remembered that this.....day of.....in the year of our Lord.....peaceable and quiet possession and seisin of the within-mentioned land and other premises in this deed contained was delivered by the within-named X.Y., according to the form and effect of this deed in the presence of us whose names are hereunto subscribed.

I.K.

L.M.
