



THE STATUTES OF THE REPUBLIC OF SINGAPORE

SETTLED ESTATES ACT

(CHAPTER 293)

(Original Enactment: Ordinance 19 of 1934)

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Settled Estates Act

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An Act relating to settled estates.

[1st January 1935]

Short title

1. This Act may be cited as the Settled Estates Act.

Interpretation

2. In this Act —

“court” means the High Court or a judge when sitting in open court;

“judge” means a judge sitting in chambers;

“settled estates” —

(a) means all immovable property and all estates or interests therein, which are the subject of a settlement; and

(b) includes any immovable property of or to which a minor is seised or entitled in his own right other than a lease not exceeding 3 years which is executed by a minor who has attained the age of 18 years as a principal;

“settlement” means any statute, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which any immovable property, or any estates or interests therein, stand limited to, or in trust for, any person or persons, by way of succession, including any such

instruments affecting the estates of any one or more of such persons exclusively.

[7/2009]

Remainders and reversions

3.—(1) All estates or interests in remainder or reversion not disposed of by a settlement, and reverting to the settlor, or descending to the next-of-kin of a testator, shall be deemed to be estates coming to such settlor or next-of-kin, under or by virtue of the settlement.

How court to determine

(2) In determining what are settled estates, the court or a judge shall be governed by the state of facts, and by the trusts or limitations of the settlement at the time of the said settlement taking effect.

Power to authorise sales of settled estates

4.—(1) The court or a judge, if it is considered proper and consistent with due regard for the interests of all parties entitled under the settlement, may from time to time authorise a sale of the whole or any part of any settled estates, to be conducted and confirmed in the same manner as a sale of lands sold under a judgment of the court.

Proceeds of sale to be dealt with so as best to carry out intention

(2) The proceeds of such sale shall be invested, or dealt with by the court, in such manner as the court or a judge thinks best calculated to carry out the intentions of the settlor, and, subject thereto, with due regard to the interests of those intended to be benefited by the settlement.

Consideration on lands sold for building

(3) When any such lands are sold for building purposes, the court or a judge may, if it or he sees fit, allow the whole or any part of the consideration to be a rent issuing out of such lands, to be secured and settled in such manner as the court or judge approves.

Court to direct execution of conveyance

(4) On every sale under this Act, the court or a judge may direct what person or persons shall execute the deed of conveyance.

(5) The deed, executed by such person or persons, shall take effect as if the settlement had contained a power enabling such person or persons to effect such sale.

Power to authorise leases of settled estates

5.—(1) The court or a judge, if it is considered proper and consistent with due regard for the interests of all parties entitled under the settlement, may from time to time authorise leases for such time as the court or judge considers expedient, not exceeding 99 years for building or repairing leases, or for leases for other purposes in cases where the court or judge considers that a lease for 21 years is not sufficient, or 21 years for other leases, of the whole or any part of any settled estates, or of any rights or privileges over or affecting any settled estates, for any purpose whatsoever, whether involving waste or not; and may authorise the acceptance of surrenders of any such leases, either for the purpose of obtaining a renewal of the same or otherwise.

Best rent to be reserved

(2) On every such lease there shall be reserved the best rent, or reservation in the nature of rent, either uniform or not, that can be reasonably obtained without taking any fine or other benefit in the nature of a fine.

Proviso

(3) A peppercorn rent or any smaller rent than the rent to be ultimately made payable may, if the court or a judge thinks fit so to direct, be made payable during any part of the term of the lease.

Lease by deed

(4) Every such lease shall be by deed, and the lessee shall execute a counterpart thereof.

Covenants, etc.

(5) Every such lease shall contain such covenants, conditions and stipulations, as the court or a judge considers expedient, with reference to the special circumstances of the lease.

Power to extend to preliminary contracts

(6) The power hereby given to authorise leases shall extend to authorise preliminary contracts to grant any such leases, and any of the terms of those contracts may be varied in the leases.

Court not to exceed powers of settlors

6. The court shall not authorise any sale or other act beyond the extent to which, in the opinion of the court, the same might have been authorised in and by the settlement, by the settlor or settlors.

Who may apply

7. The application may be made by or on behalf of —

- (a) any person entitled to the possession, or to the receipt of the rents and profits, of any settled estates for a term of years determinable on his death, or for an estate for life, or any greater estate;
- (b) any person entitled to the possession, or to the receipt of the rents and profits of any settled estates, as the assignee of any person who, but for such assignment, would be entitled to such estates for a term of years determinable with any life, or for an estate for any life, or any greater estate; or
- (c) any trustees for any such person.

Evidence of advisability

8.—(1) Upon every such application, the court shall be satisfied by sufficient evidence that it is proper and consistent with due regard to the interests of all parties entitled under the settlement that the powers should be exercised.

(2) It shall be stated in the affidavit why, and upon what ground, it is deemed so.

Parties who should concur

9. The parties to concur or consent shall be all the persons in existence having any beneficial estate or interest under or by virtue of the settlement, and also all trustees having any estate or interest on behalf of any unborn child.

Notice to be given to persons who do not consent to or concur in application

10.—(1) Where, on an application under this Act, the concurrence or consent of any such person as aforesaid has not been obtained, notice shall be given to such person in such manner as the court or a judge to which or whom the application is made directs, requiring him to notify, within the time to be specified in the notice, whether he assents to or dissents from the application, or submits his rights or interests, so far as they may be affected by the application, to be dealt with by the court or judge.

(2) Every such notice shall specify to whom and in what manner such notification shall be delivered or left.

(3) In case no notification is delivered or left in accordance with the notice, and within the time thereby limited, the person to or for whom the notice has been given or left shall be deemed to have submitted his rights and interests to be dealt with by the court or judge.

Court may dispense with notice under certain circumstances

11. Where, on an application under this Act, the concurrence or consent of any such person as aforesaid has not been obtained, and, in case the person cannot be found, or in case it is uncertain whether he is living or dead, or in case it appears to the court that the notice as aforesaid cannot be given to the person without expense disproportionate to the value of the subject matter of the application, then and in any such case the court or a judge, if it or he thinks fit, either on the ground of the rights or interests of that person being small or remote, or being similar to the rights or interests of any other person or persons, or on any other ground, may by order

dispense with notice to that person, and that person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the court.

Court may dispense with consent having regard to number and interests of parties

12.—(1) An order may be made upon any application notwithstanding that the concurrence or consent of any such person as aforesaid has not been obtained, or has been refused.

(2) The court or a judge, in considering the application, shall have regard to the numbers of persons who concur in or consent to the application, and who dissent therefrom, or who submit, or are to be deemed to submit their rights or interests to be dealt with by the court or judge, and to the estates or interests which such persons, respectively, have or claim to have in the estates as to which the application is made.

(3) Every order of the court made upon such application shall have the same effect as if all such persons had been consenting parties thereto.

Applications may be granted without consent saving rights of non-consenting parties

13. The court may, if it thinks fit, give effect to any application, subject to and so as not to affect the rights, estate or interests of any person whose concurrence or consent has been refused, or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the court, or whose rights, estate or interests ought in the opinion of the court to be excepted.

Notice of application to be served on all trustees, etc.

14. Notice of any application to the court under this Act shall be served on all trustees who are seised or possessed of any estate in trust for any person whose consent or concurrence to or in the application is hereby required, and on any other parties who, in the opinion of the court or a judge, ought to be so served, unless the court or judge thinks fit to dispense with the notice.

Notice of application to be given in newspapers if court directs

15.—(1) Notice of any application to the court under this Act shall, if the court or a judge so directs, but not otherwise, be inserted in such newspapers as the court or judge directs.

(2) Any person or body corporate, whether interested in the estate or not, may apply to the court or a judge by summons for leave to be heard in opposition to or in support of any application which may be made to the court under this Act.

(3) The court or a judge may permit such person or corporation to appear and be heard in opposition to or in support of any such application, on such terms as to costs or otherwise and in such manner as it or he thinks fit.

Summons

16.—(1) All powers given by, and all applications to the court under this Act, and consents to and notifications respecting the applications, may be executed, made or given by summons.

(2) All notices under this Act may be given by or to —

- (a) guardians on behalf of minors;
- (b) the Official Assignee on behalf of bankrupts; and
- (c) either of the following persons, on behalf of an individual who lacks capacity within the meaning of the Mental Capacity Act (Cap. 177A):
 - (i) a donee of a lasting power of attorney which is granted by that individual under the Mental Capacity Act, and under which that individual confers on the donee authority to make decisions in relation to that individual for the purposes of this Act;
 - (ii) a deputy who is appointed or deemed to be appointed for that individual by the court under the Mental Capacity Act, and who is conferred power to make decisions in relation to that individual for the purposes of this Act.

[Act 16 of 2016 wef 10/06/2016]

Married woman to be examined apart

17.—(1) In cases where a married woman applies to the court or a judge, or consents to an application to the court or a judge, under this Act, she shall first be examined apart from her husband by such officer or person as the court or judge appoints, either generally or for the special occasion, touching her knowledge of the nature and effect of the application, and it shall be ascertained that she freely desires to make or consent to the application.

Separate use not to restrain court

(2) Such examination shall be made whether the property is her separate property under any special Act or not, or whether it is settled in trust for her separate use, independently of her husband, or not.

(3) No clause or provision in any settlement restraining anticipation shall prevent the court or judge from exercising, if it or he thinks fit, any of the powers given as to leases and sales of settled estates.

No forfeiture

(4) No exercise of such powers shall occasion any forfeiture, anything in the settlement contained to the contrary notwithstanding.

Examination when in Singapore

18. The examination of such married woman when resident in Singapore shall be made either by the judge or by some officer or person appointed by the judge for that purpose, who shall certify under his hand that he has examined her apart from her husband, and is satisfied that she is aware of the nature and effect of the intended application, and that she freely desires to make or consent to the same.

Examination if out of Singapore

19. If any married woman so to be examined is outside Singapore, her examination may be made by any person appointed for that purpose by the court or a judge, and such person shall certify under his hand to the effect hereinbefore provided in respect of the examination of a married woman within Singapore.

Modes in which leases may be authorised

20. The power to authorise leases, conferred by section 5, may be exercised by the court or a judge, either by approving of particular leases, or by ordering that powers of leasing in conformity with that section shall be vested in trustees in the manner hereinafter mentioned.

What evidence to be produced on application to authorise leases

21. When application is made to the court or a judge either to approve of a particular lease or to vest any powers of leasing in trustees, the court or judge shall require the applicant to produce such evidence as is sufficient to enable the nature, value and circumstances of the estate to be ascertained, and the terms and conditions on which leases thereof ought to be authorised.

After approval of lease court to direct who shall be lessor

22.—(1) When a particular lease or contract for a lease is approved by the court or a judge, the court or judge shall direct what person or persons shall execute the same as lessor.

(2) The lease or contract executed by such person or persons shall take effect in all respects as if he or they were, at the time of the execution thereof, absolutely entitled to the whole estate or interest which is bound by the settlement, and had immediately afterwards settled the same according to the settlement.

Power of leasing may be vested in trustees

23.—(1) When it appears to be expedient that any general powers of leasing any settled estates should be vested in trustees, the court or a judge may, by order, vest any such powers accordingly, either in the existing trustees of the settlement, or in any other persons.

(2) Such powers, when exercised by such trustees, shall take effect in all respects as if the powers so vested in them had been originally contained in the settlement.

(3) In every such case the court or judge, if it or he thinks fit, may impose any conditions as to consents, or otherwise, on the exercise of such powers.

(4) The court or judge may also authorise the insertion of provisions for the appointment of new trustees from time to time for the purpose of exercising such powers of leasing as aforesaid.

Conditions that leases be settled by court not to be inserted in orders made under this Act

24. In orders under this Act for vesting any powers of leasing in any trustees or other persons, no conditions shall be inserted requiring that the leases thereby authorised should be submitted to or be settled by the court or a judge, or be made conformable with a model lease deposited in the registry, save only in any case in which the parties applying for the order desire to have any such condition inserted, or in which it appears to the court or judge that there is some special reason rendering the insertion of such a condition necessary or expedient.

Condition where inserted may be struck out

25.—(1) In all cases of orders in which any such condition, as is mentioned in section 24, has been inserted, any party interested may apply to the court or a judge to alter the order, by striking out the condition, and the court or judge may alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state.

(2) Nothing herein shall make it obligatory on the court or a judge to act under this provision in any case in which, from the previous evidence or from any other evidence, it appears to the court or judge that there is any special reason why in the case in question such a condition is necessary or expedient.

Notice of exercise of powers to be given as directed by court

26. The court or a judge shall direct that some sufficient notice of any exercise of any of the powers conferred on it or him by this Act shall be placed on the settlement, or on any copies thereof, or recorded in any other way, in all cases where it appears to the court or judge to be practicable and expedient for preventing fraud or mistake.

Application of moneys arising from sales

27. The moneys or part of the moneys to be received on any sale effected under this Act, or the rents or payments reserved under any lease or any part of such rents or payments, may be paid to any trustees of whom the judge approves, or the same may be ordered to be paid into court; and such moneys, rents or payments or any part thereof may be applied as the judge from time to time directs to any of the following purposes:

- (a) the discharge or redemption of any incumbrance affecting the immovable property in respect of which such money was paid, or affecting any other immovable property subject to the same settlement;
- (b) the permanent improvement of any immovable property subject to such settlement;
- (c) the purchase of other immovable property to be settled in the same manner as the immovable property in respect of which the money was paid;
- (d) the payment to any person becoming absolutely entitled.

Trustees may apply moneys in certain cases without application to court

28. The application of the moneys in the manner provided in section 27 may, if the court or a judge so directs, be made by the trustees, if any, without any application to the court, or otherwise upon an order of the court on the application of the person who would be entitled to the possession or the receipt of the rents and profits of the immovable property, if the money had been invested in the purchase of immovable property.

Moneys, until they can be applied, to be invested, and dividends paid to parties entitled

29.—(1) Until the moneys can be applied as provided in section 27, the same shall be invested as the court or a judge directs, in some or one of the investments in which cash under the control of the court is for the time being authorised to be invested.

(2) The interest and dividends of such investments shall be paid to the person who would have been entitled to the rents and profits of the immovable property if the money had been invested in the purchase of immovable property.

Court may direct application of money in respect of leases or reversions as may appear just

30. Where any purchase money paid into court under this Act has been paid in respect of any lease for a life or lives or years (or for a life or lives and years), or any estate in immovable property less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court or a judge may, on the application of any party interested in such money, order that the same shall be laid out, invested, accumulated and paid, in such manner as the court or judge considers will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which such money has been paid, or as near thereto as may be.

Evidence of execution of counterpart lease by lessee

31. The execution of any lease by the lessor or lessors shall be deemed sufficient evidence that a counterpart of such lease has been duly executed by the lessee as required by section 5.

Costs

32.—(1) The court or a judge may, if it or he thinks fit, order that all or any costs or expenses of all or any parties of and incident to any application under this Act shall be a charge on the property which is the subject of the application, or on any other estate included in the same settlement, and subject to the same limitations.

(2) The court or a judge may also direct that such costs and expenses shall be raised by sale or mortgage of a sufficient part of such property, or out of the rents or profits thereof, such costs and expenses to be taxed as the court or judge directs.

LEGISLATIVE HISTORY
SETTLED ESTATES ACT
(CHAPTER 293)

This Legislative History is provided for the convenience of users of the Settled Estates Act. It is not part of the Act.

1. Ordinance 19 of 1934 — Settled Estates Ordinance 1934

Date of First Reading : 12 February 1934
Date of Second and Third Readings : 16 April 1934
Date of commencement : 1 January 1935

2. 1936 Edition — Settled Estates Ordinance (Chapter 52)

Date of operation : 5 January 1936

3. 1955 Edition — Settled Estates Ordinance (Chapter 20)

Date of operation : 1 January 1955

4. 1970 Revised Edition — Settled Estates Act (Chapter 39)

Date of operation : 1 March 1971

5. 1985 Revised Edition — Settled Estates Act (Chapter 293)

Date of operation : 30 March 1987

6. Act 7 of 2009 — Civil Law (Amendment) Act 2009

(Consequential amendments made to Act by)

Date of First Reading : 17 November 2008
(Bill No. 38/2008 published on
18 November 2008)
Date of Second and Third Readings : 19 January 2009
Dates of commencement : 1 March 2009 (except item 7(b)
of the Schedule)
2 March 2010 (item 7(b) of the
Schedule)

7. Act 21 of 2008 — Mental Health (Care and Treatment) Act 2008

(Consequential amendments made to Act by)

Date of First Reading : 21 July 2008
(Bill No. 11/2008 published on
22 July 2008)
Date of Second and Third Readings : 16 September 2008

Date of commencement : 1 March 2010 (except paragraph (i) of item 1(8)(a), item 1(8)(b) and item 1(41) of the Second Schedule)

8. 2013 Revised Edition — Settled Estates Act (Chapter 293)

Date of operation : 31 August 2013

9. Act 16 of 2016 — Statutes (Miscellaneous Amendments) Act 2016

Date of First Reading : 14 April 2016 (Bill No. 15/2016 published on 14 April 2016)

Date of Second and Third Readings : 9 May 2016

Date of commencement : 10 June 2016