

REDEMPTION OF MORTGAGES (PUNJAB) ACT, 1913

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12. Title, extent and limitation of scope of Act. Definitions. Applications of certain sections of Punjab Tenancy Act. Petition for redemption. Particulars to be contained in petition. Mortgagee to be summoned. Procedure when petitioner is present and mortgagee present. Procedure when petitioner is present and mortgagee is absent. Procedure when both parties are in attendance : order for redemption. Procedure in contentious cases. Enquiry into objection raised by mortgagee. Enquiry regarding sum due. Saving of suits to establish rights. 13. 14. 15. 16

17. Setting aside ex parte orders or orders of dismissals. No second petition. Return of deposit. Deposit not to be attached. Cessation of interest. Power to make rules. : I'b. 11.1 REDEMPTION OF MORTGAGES 465 'THE REDEMPTION OF MORTGAGES (PUNJAB) ACT, 1913. ACT No. 11 OF 1913. [Received the assent of His Highness the Lieutenant- Governor of the Punjab on the 8th February, 1913, that of his Excellency the Viceroy and Governor- General's on the 4th March, 1913, the Governor-General's assent was first published in the Punjab Government Gazette of 14th March, 1913.] 2 No. Year 1913 3 Short title The Redemption of Mortgages (Punjab) Act, 1913 4 Whether repealed or otherwise affected by legislation Amendment Punjab Act, VII of 1934 (Part VII) Amended by the Government of India (Adaptation of Indian Laws) order, 1937 Amended by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of. 1948 (G. G. O. 40) Amended by the Adaptation of Laws Order, 1950 Amended by the Adaptation of Laws (Third Amendment) Order. 1951 Extended to the territories which, immediately before the 1st November, 1956 were comprised in the State of Patiala and East Punjab States Union by Punjab Act 18 of 1958 8 An Act to provide a summary procedure for the redemption of certain mortgages of land in Punjab. WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in Punjab ; It is hereby enacted as follows : 1. (1) This Act may be called the Redemption of Title. Mortgages (Punjab) Act, 1913. (2) For Statement of Objects and Reasons, see Punjab Gazette, 1912, Part V, page 183 ; for Report of the Select Committee, see Punjab Gazette, 1912, Part V, page 227, and for Proceedings in Council, Punjab Gazette, 1912, Part V, page 212, and ibid, 1913, Part V, page 7. (3) For Statement of Objects and Reasons, see Punjab Gazette, 1934, Extraordinary, pages 23-24, for Report of the Select Committee, see ibid, 1934. Part V, pages 23—27, and for Proceedings in Council, see the Punjab Legislative Council Debates, Vol XXV, pages 2480, 1068-1069, 80—106. 184—213, 318—363, 667—652, 862—984, 986—1918, 1923—1137, 1155—1182, 1191—1216, 1363—1396. (4) For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1958, page 546K. (5) Substituted for the words "East Punjab" [which had been inserted for the words "The Punjab" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948] by the Adaptation of Laws (Third Order, 1951. 466 Limitation Of of Act to mortgagees. Definition: is. REDEMPTION MORTGAGES [1912 P". Act (2) It extends to 1 Union Territory of Chandigarh 1 (S) It shall apply only to mortgage of land— (a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or a subdivision of the Village appertaining thereto and mortgaged therewith, does not exceed area 2150 acres) ; or (b) in which, whatever the area, the principal money secured under the mortgage does not exceed "[5,000] rupees Provided that it shall not apply to any mortgage made under section 6 of the "Punjab Alienation of Land Act, 1900 . for the Patiala Alienation of Land Act, 1972 Bk. 1 2. In this Act, unless there is something repugnant in the subject or context, — (I) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes— (a) the sites of buildings and other structures on such land ; (b) a share in the profits of an estate or holding ; (c) any dues or any fixed percentage of the land revenue payable by an inferior land-owner to a superior land-owner , (d) a right to receive rent (e) any right to water enjoyed by the owner or the occupier of land as such ; and (f) any right of occupancy 3 Substituted for the word "Punjab" by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) order, 1968. 2 Substituted for the figures and words "30 acres" . by Punjab Act, of 1934, section 33. 3 Substituted for the figures "1000" by Punjab Act, VII of 1934,

section 33. 4Repealed by the Adaptation of Laws (Third Amendment) Order, 1951. 5Added by Punjab Act No. 18 of 1958. : Vb. Act 11.1 MORTGAGES 467 (2) the expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade • (3) "prescribed" shall mean, prescribed by rules made under this Act

3. Subject to the provisions of this Act and the rules Application of thereunder, the provisions of sections 79, 85, 86, 87, 89, 90 certain sections of Punjab Ten- of 91, 92, and 101, of the Punjab Tenancy Act, 1887, shall, so far as may be, apply to all proceedings of a Collector under this Act

4. The mortgagor or other person entitled to institute Petition for redemption.a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession Verification of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector. The petitioner shall state in his petition such particulars to be contained and file therewith such documents as may be prescribed.

5. When the petition has been duly presented and the Mortgagee to deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified.Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon. 6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, is absent and the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits he claim, in which case the Collector shall make an order— (a) that the mortgage be redeemed ; (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee ; 468 REDEMPTION MORTGAGES • 11b. Act 11 (e) that the mortgagee deposit with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner ; (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him : Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession

7. When the petitioner appears, the mortgagee Procedure when petitioner and mortgagee do not appear, when the petition is called on for hearing, present mortgagee absent. the Collector shall, unless he adjourns the proceedings, inquire in a summary manner (a) whether the petitioner is entitled to redeem, the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under mortgage. If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition. If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act. If the Collector is satisfied that petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order in manner aforesaid. If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition

8. Where both parties appear when the petition is Procedure when both parties are In attendance : called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgagee replies in the affirmative, the Collector shall make an order as laid down in section (i)(a), (b), (c) and (d) of this Act. If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall inquire from the petitioner

whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in section 6 (a), (b), (c) and (d) above. If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition

9. If the mortgagee raises objection on any ground procedure other than the amount of the deposit, or if the petitioner is cases.not Willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary inquiry regarding the objection raised by the mortgagee or regarding the sum due, IO. If on inquiry regarding any objection so raised by Enquiry inn, the mortgagee the Collector is of opinion that it bars re- by mortgagee. demption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act. Enquiry re- 11. If on inquiry regarding the sum due the Collector garding sum due. is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall unless he dismisses the peti- tion under section 10, make an order as laid down in section 6 (a), (b) (c) and (d) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposit. ed by the petitioner, he shall unless he dismisses the 470 OF MORTGAGES 1 1913 : J'b. Act 11 petition unde section 10, fix a period not exceeding .30 day; within which the petitioner shall deposit the difference together with any further sum which may be due on account of interest up to the date of the deposit, If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in section 6(a), (b), (c) and (d) of this Act. If the petitioner fails to make such deposit within the p&iod fixed, the Collector shall dismiss the petition. saving suits 12, Any party aggrieved by an order made under sections 6, 7; 8, 9, 10, or 11 of this Act may institute a suit rights. to establish his rights in respect of the mortgage, but, sub- ject to the result of such suit, if any, the order shall be conclusive. setting aside Notwithstanding anything in this section a mortgagee ex-parte order or orders of dis-against whom an et-parte order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside, and the Collector may in his discretion set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit; provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party. No second peti- 13. The dismissal of a petition under this Act shall bar tion. any further petition under this Act by the same petitioner or his representative in respect of the same mortgage. Return of de- 14. If the Collector dismisses a petition under this posit. Act, he shall order that the sum deposited by the petitioner be returned to him. Deposit not to 15. No sum deposited with the Collector by peti- be attached. tioner under the provisions of this Act shall be attached by any Court or Revenue Officer

16. When • the petitioner has deposited with the Cessation of in.Collector the sum declared by him to be due on the mortg- terest. age, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit. 1913 : P b. Act 11.1 REDEMPTION OF MORTGAGES 471 Where the Collector finds that a furt.her sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit . Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exusts a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money : Provided also that where a suit is instituted undeF section 12, the court may pass such order as to interest as it deems fit

17. The I[Centra1 Government] shall have power to Power to make make rules, consistent with this Act, for carrying out then purposes of this Act."State Government" by the punjab of Laws on State and Con- for the word? daptation