
CHAPTER 448

THE TRUSTEES' RELIEF ACT

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TRUSTEES' RELIEF

(7th December, 1877.)

9/1877.
S.R.O. 22/1956.

1. This Act may be cited as the Trustees' Relief Act. **Short title.**

2. All trustees, executors, administrators, or other persons having in their hands any moneys belonging to any trust whatsoever, or the major part of them, shall be at liberty, on filing an affidavit shortly describing the instrument creating the trust, according to the best of their knowledge and belief, to pay the same into the High Court in the matter of the particular trust (describing the same by the names of the parties, as accurately as may be, for the purpose of distinguishing it), in trust to attend the orders of the said Court; and all trustees or other persons having any Government securities standing in their names, or in the names of any deceased persons of whom they shall be personal representatives, upon any trusts whatsoever, or the major part of them, shall be at liberty to transfer or deposit such securities into or in the name of the Registrar of the High Court, with his privity, in the matter of the particular trust (describing the same as aforesaid), in trust to attend the orders of the said Court; and, in every such case, the receipt of the Registrar of the said Court for the money so paid, or, in the case of securities, of the transfer or deposit of such securities, shall be a sufficient discharge to such trustees, or other persons, for the money so paid, or the securities so transferred or deposited.

Trustees may pay trust moneys, or transfer stocks and securities, into the High Court.

3. Such orders as shall seem fit shall be, from time to time, made by the said High Court in respect of the trust moneys or securities so paid in, transferred, and deposited as aforesaid, and for the investment and payment of any such moneys, or of any dividends or interest on any such securities, and for the transfer and delivery out of any such securities and for the administration of any such trusts generally, upon a petition to be presented in a summary way to a Judge, without bill, by such party, or parties, as to such Judge shall appear to be competent and necessary in that behalf; and service of such petition shall be made upon such person, or persons, as such Judge shall see fit and

High Court to make orders on petition, without bill, for application of trust moneys and administration of trust.

direct; and every order made upon such petition shall have the same authority and effect, and shall be enforced and subject to re-hearing and appeal, in the same manner as if the same had been made in a suit regularly instituted in the Court; and, if it shall appear that any such trust funds cannot be safely distributed without the institution of one or more suit or suits, such Judge may direct any such suits to be instituted.

High Court may
make orders &c.

4. The High Court shall have power, and is hereby authorized, to make such orders as shall, from time to time, seem necessary for the better carrying of the provisions of this Act into effect.

Any Judge may,
upon application
by majority of
trustees, &c.,
order payment or
transfer of trust
moneys or securi-
ties into the High
Court.

5. If, upon any petition presented to a Judge in the matter of this Act, it shall appear to such Judge, before whom such petition shall be heard, that any moneys or securities are vested in any persons as trustees, executors, or administrators, or otherwise, upon trusts within the meaning of this Act, and that the major part of such persons are desirous of transferring, paying, or delivering the same to the Registrar of the High Court under the provisions of this Act, but that, for any reason, the concurrence of the other or others of them cannot be had, it shall be lawful for such Judge as aforesaid to order and direct such transfer, payment, or delivery to be made by the major part of such persons without the concurrence of the other or others of them; and, where any such moneys or Government securities shall be deposited with any banker or other depository, it shall be lawful for such Judge as aforesaid to make such order for the payment or delivery of such moneys or Government securities to the major part of such trustees, executors, administrators, or other persons as aforesaid, for the purpose of being paid or delivered to the said Registrar of the High Court, as to the said Judge shall seem meet; and every transfer of any securities, and every payment of money or delivery of securities in pursuance of any such order, shall be as valid and effectual as if the same had been made on the authority, or by the act, of all the persons entitled to the securities so transferred, or the moneys or securities so paid or delivered, respectively, and shall fully protect and indemnify all persons acting under or in pursuance of such order.

6. No trustee, executor, or administrator making any payment, or doing any act, *bonâ fide* under or in pursuance of any power of attorney shall be liable for the moneys so paid, or the act so done, by reason that the person who gave the power was dead at the time of such payment or act, or had done some act to avoid the power:

Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party @v- ing such power.

Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such trustee, executor, or administrator, was not known to him:

Provided also, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made, but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the trustee, executor, or administrator, if the money had not been paid away under such power of attorney.

7. Where an executor or administrator, liable as such to the rents, covenants, or agreements contained in any lease, or agreement for a lease, granted or assigned to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease, as may have accrued due and been claimed up to the time of the assignment hereafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease, or agreement for a lease, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased to meet any future liability under the said lease, or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not, after having assigned the said lease, or agreement for a lease, and having, when necessary,

As to liability of executor or administrator in respect of rents, covenants, or agreements.

set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease, or agreement for a lease; but nothing herein contained shall prejudice the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rent, &c., in conveyance on rent charge.

8. In like manner, where an executor or an administrator, liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to, or made or entered into with, the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance, or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed or ascertained sum, covenanted, or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance or agreement for a conveyance; but nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

9. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged, would have been given by the Court in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or in the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets, or any part thereof, so distributed, to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets, or a part thereof, as the case may be; but nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively.

As to distribution of the assets of the testator or intestate after notice given by executor or administrator.

10. Any trustee, executor, or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court, or by summons upon a written statement to any Judge at Chambers, for the opinion, advice, or direction of such Judge on any question respecting the management or administration of the trust property, or the assets of any testator or intestate, such application to be served upon, or the hearing thereof to be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient; and the trustee, executor, or administrator acting upon the opinion, advice, or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, executor, or administrator, in the subject matter of the said application:

Trustee, executor, &c., may apply by petition to Judge for opinion, advice, &c., in management, &c., of trust property, &c.

Provided, nevertheless, that this Act shall not extend to indemnify any trustee, executor, or administrator, in respect of any act done in accordance with such opinion, advice, or direction, as aforesaid, if such trustee, executor, or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion,

advice, or direction; and the costs of such application, as aforesaid, shall be in the discretion of the Judge to whom the said application shall be made.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the trustees.

11. Every deed, will, or other instrument creating a trust, either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say: "That the trustees, or trustee, for the time being, of the said deed, will, or other instrument shall be respectively chargeable only for such moneys, funds and securities, as they shall, respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee, for the time being, of the said deed, will or other instrument to reimburse themselves or himself, or pay or discharge, out of the trust premises, all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Form of applying for advice of Judge, &c., under sec. 10.

12. Where any trustee, executor, or administrator shall apply for the opinion, advice, or direction of the Court under section 10, the petition or statement shall be signed by counsel, and the Judge by whom it is to be answered may require the petitioner or applicant to attend him by counsel, either in Chambers or in Court, where he deems it necessary to have the assistance of counsel.

High Court may make general orders as to investment of cash, &c.

13. It shall be lawful for the High Court to make such general orders, from time to time, as to the investment of cash under the control of the Court in such funds or securities as it shall think fit.

14. When any such general order as aforesaid shall have been made, it shall be lawful for trustees, executors, or administrators, having power to invest their trust funds upon Government or other securities in Antigua and Barbuda, to invest such trust funds, or any part thereof, in any of such securities in or upon which, by such general order, cash under the control of the Court may from time to time be invested.

Trustees, &c., to invest trust funds in the securities, &c., in which cash under control of Court may be invested.