

LAND TITLES ACT.

Re sales under powers in charges the attention of those desiring to register conveyances under powers of sale in charges is called to the following requirements :

(1) The rights of a chargee and the steps to be taken are governed by the terms of the power contained in his charge.

(2) Where a notice is required, it should be shown that such default existed at the time the notice of the proposed exercise of the power of sale was served as justified the action taken, and that such default has continued. Where no notice is required by the charge, but notice has, notwithstanding this, been given, the facts should be shown.

(3) Proof of proper service of the notice upon all persons entitled thereto should be produced. Where the acceptance of a solicitor is relied on, proof of his authority should be produced.

(4) Under 56 Vict., c. 22, s. 3, Ont., passed 27th May, 1893, the wife of a person purchasing land subject to a charge, or the wife of the owner of land whose marriage is subsequent to the charge, has only the same rights in respect of dower as she would have had if the legal estate had been transferred by an ordinary mortgage. As, however, this statute is not retroactive if the land was purchased by the registered owner, prior to this statute and subject to a charge, his wife should be served, though this would not be required under the ordinary system. The difference arises from the fact that a charge does not convey the legal estate to the chargee. It remains in the chargor and passes to his vendee. Where the purchaser, being a man, is unmarried, this fact should be shown, if the purchase was prior to this statute.

(5) Where entry upon the land is a condition precedent to the right to exercise the power, such entry should be shown.

(6) Where the property has been sold privately, it should be shown that proper means were taken to obtain the best price, and that a fair price has, in fact, been obtained. For this reason, where the private sale is after an abortive attempt to sell by auction, the proceedings in connection with the abortive attempt should be shown.

(7) Where property has been sold by public auction, proof that the sale was duly advertised and properly conducted should be filed. The conditions should be produced, and, where there is a reserve bid, the amount should be stated. The conditions should not be unduly stringent. The fact that the property is under the Land Titles Act should be stated in the advertisement and at the sale, and this fact makes the insertion of special conditions unnecessary, except in rare cases.

(8) An affidavit should be made by the chargee (or his assignee where the sale is by the assignee of a charge) stating that the sale is *bona fide*.

(9) Evidence intended for the Land Titles Office should be by affidavit. Affidavits in respect of proceedings under powers of sale should be headed "Land Titles Act," and entitled in the following manner: "In the matter of sale under charge No. 14892, A.B. to C.D."

J. G. SCOTT,
Master of Titles.

September, 1893.