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AN ACT

To Confirm Certain Persons in the Fee-Simple of the Real Estate which they now Hold.

WHEREAS many Instruments, purporting to convey Real Estate situate in Vancouver Island and its Dependencies, have been prepared by persons not conversant with the preparation of legal instruments;

And whereas, it is expedient that the title to the fee-simple of such Real Estate should be confirmed in the persons who have contracted to purchase the same in good faith, but have not obtained a valid conveyance of the same Real Estate through ignorance or want of proper legal advice, and in the persons claiming derivatively from them;

Be it therefore enacted by His Excellency the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies:

Purchasers, Prior to Passage of this Act, with Imperfect Conveyances, may File a Bill in Respect of Such Imperfections.

I. That from and after the passage of this Act, any person or persons who, prior to the passage of this Act, shall have purported to purchase Real Estate in Vancouver Island or its Dependencies, from the owner of the fee-simple thereof for a valuable consideration, and shall have obtained a conveyance thereof, defective through want of proper words of limitation, or of some formality; and any person or persons who shall be entitled derivatively to an interest so purported to have been purchased, and so originally conveyed by an instrument insufficient to pass the fee-simple, may file a Bill in the Supreme Court of Civil Justice against the original grantor, his heirs or assigns, and in the event of such Bill being filed by any person derivatively entitled as aforesaid against the original grantor, his heirs or assigns, and the intermediate holders of the same Real Estate, praying a decree, that the said Real Estate may be vested in him or them for an absolute estate in fee simple.

Chief Justice may Grant a Rule to Show Cause.

II. The Chief Justice may, if satisfied that the actual intention of the original grantor was to convey the absolute legal fee-simple or the absolute equitable fee-simple in the Real Estate purported to be conveyed, order that the original grantor and all persons claiming as his heirs or assigns, shall show cause, within twelve months from the date of such order, why a decree that the legal fee-simple, or the equitable fee-simple in the said Real Estate, should not be vested by the order of the Court in the Plaintiff or Plaintiffs.

Service of Order.

III. The order to show cause may be served either in or out of the jurisdiction, in such cases and in such manner as the Chief Justice may, at the time of the order, direct.

Appearance of Defendants.

IV. Any person desirous of showing cause as aforesaid, shall enter an appearance to the said Bill, and when all the persons, parties to the said suit, shall have appeared, the cause shall be tried in the manner usual in ordinary Chancery suits.

Hearing of the Cause.

V. At the expiration of the said year, if any of the said parties shall have appeared, the cause may be brought on for a hearing, notwithstanding that all the parties thereto may not have appeared, but the Chief Justice may order the postponement thereof, and any inquiries, advertisements or proceedings, as he may think just.

Proceedings in Default of Appearance.

VI. In the event of any of the parties failing to appear as aforesaid, notice in writing shall be served on the Attorney General, or such person as he shall by some writing under his hand appoint, calling upon him to come in and defend; and the Attorney General, or such person as he shall appoint, shall conduct the case on behalf of the parties failing to appear.

Decree.

VII. The Chief Justice, upon the hearing of the case, shall, if satisfied by the matters contained in the instrument purporting to sell, that the intention of the original grantor was to sell the fee-simple of

such Real Estate to the original grantee thereof, and that the plaintiffs represent the estate or interest of the original grantee, and if also satisfied by the corroborative evidence of persons cognizant of the transaction, decree that the fee-simple thereof shall be vested in the plaintiffs or otherwise, either legally or equitably, according to the estate of the original grantor.

Costs.

VIII. The costs of all proceedings under this Act shall be borne by the Plaintiffs.

Improper Defence.

IX. Provided, that if in the opinion of the Chief Justice any party who shall have put in an appearance as aforesaid is a mere formal party, no costs shall be allowed to such party.

Vexatious Defence.

X. Provided, that if the costs of any party to the suit shall have been occasioned by a vexatious defence, the Chief Justice may direct that the whole or any part thereof, shall be disallowed in taxation.

Short Title.

XI. This Act may be cited for all purposes as "The Act to Cure Imperfect Titles, 1860."

Passed the House of Assembly, the 24th day of October, A. D. 1860.

Passed the Council, the 19th day of November, A. D. 1860.

Received my assent, the 10th day of December, A. D. 1860.

JAMES DOUGLAS,
Governor.