



# THE TRANSFER OF PROPERTY ACT, 1882



## CONTENTS

---

### SECTIONS:

#### CHAPTER I PRELIMINARY

1. Short title.  
Commencement.  
Extent.
2. Repeal of Acts.  
Saving of certain enactments, incidents, rights, liabilities, etc.
3. Interpretation clause.
4. Enactments relating to contracts to be taken as part of Contract Act.

#### CHAPTER II OF TRANSFERS OF PROPERTY BY ACT OF PARTIES (A) *Transfer of property, whether moveable or immoveable*

5. "Transfer of property" defined.
6. What may be transferred.
7. Persons competent to transfer.
8. Operation of transfer.
9. Oral transfer.
10. Condition restraining alienation.
11. Restriction repugnant to interest created.
12. Condition making interest determinable on insolvency or attempted alienation.
13. Transfer for benefit of unborn person.
14. Rule against perpetuity.
15. Transfer to class some of whom come under sections 13 and 14.
16. Transfer to take effect on failure of prior interest.
17. Direction for accumulation.
18. Transfer in perpetuity for benefit of public.
19. Vested interest.
20. When unborn person acquires vested interest on transfer for his benefit.
21. Contingent interest.
22. Transfer to members of a class who attain a particular age.

- 23. Transfer contingent on happening of specified uncertain event.
- 24. Transfer to such of certain persons as survive at some period not specified.
- 25. Conditional transfer.
- 26. Fulfilment of condition precedent.
- 27. Conditional transfer to one person coupled with transfer to another on failure of prior disposition.
- 28. Utterior transfer conditional on happening or not happening of specified event.
- 29. Fulfilment of condition subsequent.
- 30. Prior disposition not affected by invalidity of ulterior disposition.
- 31. Condition that transfer shall cease to have effect in case specified uncertain event happens or does not happen.
- 32. Such condition must not be invalid.
- 33. Transfer conditional on performance of act, no time being specified for performance.
- 34. Transfer conditional on performance of act, time being specified

#### ***Election***

- 35. Election when necessary.

#### ***Apportionment***

- 36. Apportionment of periodical payments on determination of interest of person entitled.
- 37. Apportionment of benefit of obligation on severance.

#### ***(B) Transfer of Immoveable Property***

- 38. Transfer by person authorized only under certain circumstances to transfer.
- 39. Transfer where third person is entitled to maintenance.
- 40. Burden of obligation imposing restriction on use of land, or of obligation annexed to ownership but not amounting to interest or easement.
- 41. Transfer by ostensible owner.
- 42. Transfer by person having authority to revoke former transfer.
- 43. Transfer by unauthorized person who subsequently acquires interest in property transferred.
- 44. Transfer by one co-owner.
- 45. Joint transfer for consideration.
- 46. Transfer for consideration by person having distinct interests.
- 47. Transfer by co-owner of share in common property.
- 48. Priority of rights created by transfer.
- 49. Transferee's right under policy.
- 50. Rent *bona fide* paid to holder under defective title.
- 51. Improvements made by *bona fide* holders under defective titles.
- 52. Transfer of property pending suit relating thereto.
- 53. Fraudulent transfer.
- 53 A. Part performance.

### **CHAPTER III OF SALES OF IMMOVEABLE PROPERTY**

- 54. "Sale" defined.

Sale how made.  
Contract for sale.

- 55. Rights and liabilities of buyer and seller.
- 56. Marshalling by subsequent purchaser.

***Discharge of Incumbrances on sale***

- 57. Provision by court for incumbrance and sale freed therefrom.

**CHAPTER IV  
OF MORTGAGES OF IMMOVEABLE PROPERTY AND CHARGES**

- 58. "Mortgage," "mortgagor," "mortgagee," "mortgage-money" and "mortgage-deed" defined.  
Simple mortgage.  
Mortgage by conditional sale.  
Usufructuary mortgage.  
English mortgage.  
Mortgage by deposit of title-deeds.  
Anomalous mortgage
- 59. Mortgage when to be by assurance.
- 59 A. References to mortgagors and mortgagees to include persons deriving title from them.

***Rights and Liabilities of Mortgagor***

- 60. Right of mortgagor to redeem.  
Redemption of portion of mortgaged property.
- 60 A. Obligation to transfer to third party instead of re-transference to mortgagor.
- 60 B. Right to inspection and production of documents.
- 61. Right to redeem separately or simultaneously.
- 62. Right of usufructuary mortgagor to recover possession.
- 63. Accession to mortgaged property.  
Accession acquired in virtue of transferred ownership.
- 63 A. Improvements to mortgaged property.
- 64. Renewal of mortgaged lease.
- 65. Implied contracts by mortgagor.
- 65 A. Mortgagor's power to lease.
- 66. Waste by mortgagor in possession.

***Rights and Liabilities of Mortgagee***

- 67. Right to foreclosure or sale.
- 67 A. Mortgagee when bound to bring one suit on several mortgages.
- 68. Right to sue for mortgage-money.
- 69. Power of sale when valid.
- 69 A. Appointment of receiver.
- 70. Accession to mortgaged property.
- 71. Renewal of mortgaged lease.
- 72. Rights of mortgagee in possession.
- 73. Right to proceeds of revenue sale or compensation on acquisition.
- 74-75. [Repealed.]
- 76. Liabilities of mortgagee in possession.  
Loss occasioned by his default.

77. Receipts in lieu of interest.

#### ***Priority***

78. Postponement of prior mortgage.

79. Mortgage to secure uncertain amount when maximum is expressed.

80. [Repealed.]

#### ***Marshalling and Contribution***

81. Marshalling securities.

82. Contribution to mortgage-debt.

#### ***Deposit in Court***

83. Power to deposit in court money due on mortgage.  
Right to money deposited by mortgagor.

84. Cessation of interest.

85 to 90. [Repealed]

#### ***Redemption***

91. Who may sue for redemption.

92. Subrogation.

93. Prohibition of tacking.

94. Rights of mesne mortgagee.

95. Right of redeeming co-mortgagor to expenses.

96. Mortgage by deposit of title-deeds.

97. [Repealed.]

#### ***Anomalous Mortgages***

98. Rights and liabilities of parties to anomalous mortgages.

99. [Repealed.]

#### ***Charges***

100. Charges.

101. No merger in case of subsequent encumbrance.

#### ***Notice and Tender***

102. Service or tender on or to agent.

103. Notice, etc., to or by person incompetent to contract.

104. Power to make rules.

### **CHAPTER V OF LEASES OF IMMOVEABLE PROPERTY**

105. "Lease" defined.  
"Lessor," "lessee," "premium" and "rent" defined.

106. Duration of certain leases in absence of written contract or local usage.

107. Leases how made.

108. Rights and liabilities of lessor and lessee.

109. Rights of lessor's transferee.

110. Exclusion of day on which term commences.  
Duration of lease for a year.  
Option to determine lease.

111. Determination of lease.

- 112. Waiver of forfeiture.
- 113. Waiver of notice to quit.
- 114. Relief against forfeiture for non-payment of rent.
- 114 A. Relief against forfeiture in certain other cases.
- 115. Effect of surrender and forfeiture on under-lease.
- 116. Effect of holding over.
- 117. Exemption of leases for agricultural purposes.

## **CHAPTER VI OF EXCHANGES**

- 118. "Exchange" defined.
- 119. Right of party deprived of thing received in exchange.
- 120. Rights and liabilities of parties.
- 121. Exchange of money.

## **CHAPTER VII OF GIFTS**

- 122. "Gift" defined.  
Acceptance when to be made.
- 123. Transfer how effected.
- 124. Gift of existing and future property.
- 125. Gift to several of whom one does not accept.
- 126. When gift may be suspended or revoked.
- 127. Onerous gifts.  
Onerous gift to disqualified person.
- 128. Universal donee.
- 129. Saving of donations *mortis causa* and Muslim law.

## **CHAPTER VIII OF TRANSFERS OF ACTIONABLE CLAIMS**

- 130. Transfer of actionable claim.
- 130 A. Transfer of policy of marine insurance.
- 131. Notice to be in writing, signed.
- 132. Liability of transferee of actionable claim.
- 133. Warranty of solvency of debtor.
- 134. Mortgaged debt.
- 135. Assignment of rights under policy of insurance against fire.
- 135 A. Assignment of rights under policy of marine insurance.
- 136. Incapacity of officers connected with courts of Justice.
- 137. Saving of negotiable instruments, etc.

## **THE SCHEDULE.**