1965. No. 261 [C]

COUNTY COURTS

County Court Rules (Northern Ireland) 1965

RULES, DATED 10TH DECEMBER, 1965, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

ARRANGEMENT OF RULES

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I, the Right Honourable Robert William Brian McConnell, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959*, on the recommendation of the County Courts Rules Committee and after consultation with the Lord Chief Justice, do hereby make the Rules hereinafter set forth.

Dated this 10th day of December, 1965.

R. W. B. McConnell,
Minister of Home Affairs
for Northern Ireland.

The Ministry of Finance hereby consents to the Rules set forth in Order 41 and to the scale of court fees in Appendix ZM.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 10th day of December, 1965.

(L.S.)

James Reid,
Assistant Secretary.

*1959. c. 25.

ORDER 1

Where Proceedings may be Commenced

Actions generally

1.—(1) Except as otherwise provided by any enactment, an action may, irrespective of the place of residence of any defendant, be commenced—

(*a*) in the court for the division in which the defendant or one of the defendants resides or carries on business; or

(*b*) subject to the succeeding paragraphs of this Rule, in the court for the division in which the cause of action wholly or in part arose.

(2) Where the plaintiff sues as the assignee of a debt or other legal thing in action, the action may be commenced in any court in which, but for the assignment, the action might have been commenced, but in no other court.

(3) Where a plaintiff relies on paragraph (1)(*b*) he shall set out in his civil bill the facts on which he relies as giving the court jurisdiction.

Actions for recovery of, and in relation to, land

2.—(1) Proceedings (not being proceedings to which paragraph (2) applies)—

(*a*) for the recovery of land (whether with or without a claim for rent or mesne profits); or

(*b*) in which the title to any land comes in question; or

(*c*) for the redemption of any mortgage upon any land; or

(*d*) for enforcing any mortgage, charge or lien upon any land; or

(*e*) for the recovery of money secured by any mortgage, charge or lien upon any land; or

(*f*) otherwise relating to land (not being proceedings for the recovery only of rent or mesne profits);

shall be commenced in the court for the division in which the land or any part thereof is situate.

(2) Without prejudice to Rules 3, 4, 5, 7 and 8, proceedings specified in those Rules and relating wholly or partly to land may be commenced in the court for the division in which the land or any part thereof is situate.

Proceedings in relation to trusts

3. Proceedings in relation to any trust (including a charitable trust) or arising under the Trustee Act (Northern Ireland) 1958(**a**) may be commenced in the court for the division in which the persons instituting the proceedings, or the trustees or any one of such persons or of the trustees, reside or resides or in the court in which any fund to which the proceedings relate has been lodged.

Proceedings in relation to the estate of a deceased person

4. Proceedings for the administration of or otherwise in relation to the estate of a deceased person may be commenced in the court for the division in which that person last resided or carried on business, or in which his executors or administrators or any one of them reside or resides.

Partnership proceedings

5. Proceedings for the taking of a partnership account or for the dissolution or winding-up of a partnership may be commenced in the court for the division

(**a**) 1958. c. 23.

in which the partnership business was or is carried on or where the defendant or any one of the defendants resides or carries on business.

Proceedings under the Settled Land Acts 1882 *to* 1890

6. Proceedings under the Settled Land Acts 1882 to 1890 may be commenced in the court for any division in which is situate any part of the land which is to be dealt with by the court or from which the capital money to be dealt with by the court arises under those Acts or in connection with which the personal chattels to be dealt with by the court are settled.

Proceedings under the Married Women's Property Act 1882, *s.* 17.

7. Proceedings under section 17 of the Married Women's Property Act 1882(a) may be commenced in the court for the division in which either party to the proceedings resides.

Proceedings in relation to infants

8. Proceedings relating to the maintenance or advancement or for the protection of the property of infants or for the payment out of court of funds standing to the credit of infants may be commenced in the court for the division in which the infants or any one of them reside or resides or in the court in which any money to which the proceedings relate has been lodged.

Probate proceedings

9. Proceedings relating to the grant or revocation of probate or letters of administration in respect of the estate of a deceased person shall be commenced in the court for the division in which that person was ordinarily resident at the time of his death.

Replevin proceedings

10. Replevin proceedings shall be commenced in the court for the division in which the goods were seized.

Proceedings under the Legitimacy Acts (Northern Ireland) 1928 *to* 1961

11. Proceedings under the Legitimacy Acts (Northern Ireland) 1928 to 1961 may be commenced in the court for the division in which the petitioner resides or in which the marriage leading to the legitimation took place or, if neither the residence of the petitioner nor the place of marriage is situate in Northern Ireland, then in the Belfast Recorder's Court.

Proceedings for the construction of deeds, wills, etc.

12. Proceedings by way of equity civil bill for the construction of a deed, will or other written instrument and for a declaration of the rights of the persons interested therein may be commenced in the court for the division in which—

(*a*) the defendant or one of the defendants resides or carries on business; or

(*b*) the subject-matter of the application or a substantial part thereof is situate.

Proceedings commenced by petition

13. Where proceedings are required to be by petition and no other provision is made by any enactment as to the court in which the proceedings are to be commenced, Rule 12 shall apply with the necessary modifications.

(a) 45 & 46 Vict. c. 75.

Proceedings by or against a judge or clerk of the Crown and peace

14.—(1) A judge or clerk of the Crown and peace may sue and be sued in accordance with these Rules, but if the court in which but for this Rule the action would be commenced is a court of which he is the judge or clerk of the Crown and peace, the action shall not be commenced in that court but in some other court of which he is not such judge or officer.

(2) Nothing in this Rule shall affect any alternative right to commence the action in some other court of which the judge or clerk of the Crown and peace suing or being sued is not the judge or clerk of the Crown and peace.

Proceedings by and against the Crown

15. For the purposes of this Order, the Crown shall be deemed to reside within each county court division.

Where proceedings commenced in wrong court

16. Where proceedings are commenced in the wrong court the judge may—

(*a*) transfer the proceedings to the court in which they ought to have been commenced; or

(*b*) order the proceedings to be continued in the court in which they have been commenced, and hear and determine the proceedings accordingly; or

(*c*) order the proceedings to be struck out.

ORDER 2

Joinder of Causes of Action

Generally

1. Save as otherwise provided in this Order the plaintiff may unite in the same action several causes of action and—

(*a*) claims by or against husband and wife may be joined with claims by or against either of them separately; and

(*b*) claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator; and

(*c*) claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

Assignee in bankruptcy, replevin and recovery of land

2. Except by leave of the judge—

(*a*) claims by an assignee in bankruptcy as such shall not be joined with any claim by him in any other capacity;

(*b*) no cause of action shall be joined with an action of replevin; and

(*c*) no cause of action shall be joined with an action for the recovery of land except claims for mesne profits or arrears of rent or double value of the land claimed or any part thereof or for damages for breach of any contract under which it is held or for any wrong or injury to it or for payment of any principal money or interest secured by a mortgage or charge on that land or any part thereof.