

CHAPTER 152.

AGRICULTURAL RELIEF.

[No. XX of 1896.]

[19th December, 1896.]

1. This Ordinance may be cited as the Agricultural Relief Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires,— Interpretation.

“land” means cane plantation and all other land usually, or about to be, cultivated for producing at least one annual crop;

“owner” includes guardians, executors and administrators, if guardians, executors and administrators are, by the instrument appointing them or otherwise, legally charged with the cultivation of any land;

“registrar” means the registrar of deeds, and includes any sworn clerk and notary public in the deeds registry.

3.—(1) All loans or advances made by anyone to an owner of land for maintaining the cultivation and management thereof and the machinery and buildings thereon, for the purchase of necessary supplies, and for paying taxes, and all other usual and necessary outgoings connected with the up-keep thereof, including a reasonable salary to the owner in any case where he is the manager, or performs the duties of planting attorney in respect of that land, together with interest on the loans not exceeding the rate hereinafter mentioned shall, when recorded by the registrar as hereinafter provided, become a charge in preference to all charges, other than those of the Crown, the colony, and the immigration fund, on the crop or crops to be reaped from that land during the then current year, or such of them as may be pledged, and any part of the loans or advances which are not repaid out of the proceeds of the crops or of sale Charge on crops of loans to owners for upkeep of plantations :

of the land as hereinafter provided, shall become a lien on the land in respect of which that loan or advance was made, ranking immediately after all liens then existing thereon :

Proviso.

Provided that the owner shall remain personally liable for each loan or advance, unless it is expressly agreed in the certificate of loan between himself and the person making the loan or advance that he shall not be so liable.

(2) The rate of interest chargeable on the loan or advance shall not exceed six per centum per annum, but in cases where the loan or advance is made by means of promissory notes discounted by any bank or person, interest not exceeding two per centum per annum may be allowed thereon in addition to six per centum per annum.

(3) The person making the loan or advance shall be entitled, unless and until it is repaid, to oppose any intended transport or mortgage of the land, or any part thereof, any crop whereon has been pledged for the repayment of the loan or advance.

(4) If an owner obtains more than one loan or advance they shall rank, as between themselves, in the order of the dates on which they are severally recorded.

Exemption of lender from obligation to see to application of loan.

4. It shall not be incumbent on anyone making a loan or advance to an owner of land under this Ordinance to see to the due application of the loan, and the misapplication or non-application of the loan shall not affect the security for it.

Owner's attorney may avail himself on owner's account of this Ordinance.

5. A duly constituted attorney of an owner, having authority under his power of attorney to mortgage immovable property, shall be able to exercise for the owner all the powers conferred by this Ordinance on the owner in the same manner as the owner could exercise them for himself.

Giving and recording of certificates of loan; schedule; form 1.

6.—(1) The owner shall execute and give to the person making a loan a certificate in form 1 in the schedule hereto, or as near thereto as the circumstances of the case will admit, and the certificate shall also contain any agreement made between the owner and the person making the loan as to the personal liability of the owner for its repayment, as to the insurance of the crops pledged, and as to the sale or consignment of those crops when reaped.

(2) On production of the certificate to the registrar, he shall at once indorse thereon the date of receipt thereof and record the certificate by entering the particulars of the loan therein mentioned in a book to be kept in the registry and called The Agricultural Owner's Loan Book (hereinafter referred to as "the loan book"), and shall certify on the certificate that the particulars thereof have been so recorded.

(3) The date of the receipt of the certificate by the registrar shall be held for all purposes to be the date on which the loan therein mentioned was recorded.

7.—(1) Every owner desiring to obtain a loan or advance under this Ordinance, before obtaining it, shall deliver to the registrar a notice in form 2 in the schedule hereto, and the registrar shall enter the notice in the loan book, and cause it to be published in the Gazette for six successive Saturdays.

Conditions to be fulfilled before loan is obtained ;
schedule ;
form 2 ;

(2) Everyone who has a mortgage or lien on the land referred to in the notice, or is a creditor of the owner of that land, may, at any time within five weeks after the first appearance of the notice in the Gazette, enter or cause to be entered in the loan book under the notice entered therein an opposition to the loan being obtained. The opposition shall be in form 3 in the schedule hereto and shall be signed by the opposer or his attorney, in the presence of the registrar.

schedule ;
form 3.

(3) Everyone who has entered an opposition as aforesaid may withdraw it by entering or causing to be entered in the loan book a statement, signed by himself or his attorney in the presence of the registrar, to the effect that he withdraws his opposition.

(4) If any opposition is so entered, the owner of the plantation or land who desires to obtain the loan may, within five days after the last Saturday's advertisement of his notice, enter or cause to be entered in the loan book a notice requiring the person entering the opposition to file a claim in opposition within ten days after that advertisement, and thereafter the provisions of the laws of the colony relating to procedure in cases of opposition to transports and mortgages shall mutatis mutandis apply to the case. No claim in opposition shall be entered unless the notice last aforesaid is given.

(5) The registrar, if any opposition is so entered, shall not record any certificate of loan to the owner unless the opposition is withdrawn or otherwise removed.

Right of
lender to
inspect crops
pledged.

8. Anyone making a loan or an advance to an owner under this Ordinance may, from time to time at his discretion, either in person or by his attorney, or by an agent authorised in writing for that purpose by him or his attorney, enter at all reasonable times on the land in respect of the crop or crops of which he has made the loan or advance and inspect the land; and any owner or other person obstructing a holder of a certificate of loan, or his attorney, or the agent, in making the inspection, shall be liable to a fine not exceeding four hundred and eighty dollars, recoverable under the Summary Jurisdiction Ordinances, on the complaint of anyone.

Penalty for
obstructing.

Disposal of
crops
pledged.

9.—(1) Each crop charged as aforesaid, when reaped, shall be sold to the best advantage within a reasonable time, and shall be sold in the colony or consigned to some specified person without the colony for sale, according as is agreed upon between the owner and the holder of the certificate of loan.

(2) Any owner having the control of the sale or consignment of a crop, as soon as practicable after the sale or consignment of any portion of his crop, shall furnish everyone holding a certificate of loan against that crop with a detailed account of the quantity of the crop so sold or consigned, and to whom it was sold or consigned, and the amount realised thereby, and shall pay or cause to be paid to that person the whole of the proceeds of the sale, or so much thereof as is sufficient to satisfy his claim, those payments, if there are more claims than one, to be made in accordance with the priority of the claims.

(3) Any owner, or attorney of an owner, committing a breach of this section, shall be guilty of a misdemeanour and on conviction thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

(4) If the sale or consignment of the crop is by agreement placed under the control of anyone holding a certificate of loan, that person shall furnish all other persons (if any), holding certificates of loan against that crop and the owner thereof, with an account similar to that hereinbefore mentioned, and shall apply the proceeds of sale in payment of the claims of himself and those persons in order of priority, and shall pay the surplus thereof to the owner.

Entry by
lender if
owner is not
keeping up
cultivation
of crops.

10.—(1) If anyone, having a certificate of loan as aforesaid against any crop or crops, prefers a petition to the Supreme Court to the effect that he has reasonable grounds

for believing that the owner to whom he has made advances has ceased or is neglecting to cultivate the crop or crops, and if the Court is satisfied that the owner of the crop or crops has ceased or is neglecting to cultivate them, the Court shall by order authorise the petitioner or his agent to enter upon the land on which the crop is growing and take possession of the land and cultivate it and reap and manufacture the crop, and sell the crop for the benefit of the persons holding the certificate or certificates, and the agent shall apply the proceeds of the crop (after deducting the cost of upkeep of the land, and of growing, reaping, and selling the crop) in the manner indicated in the last preceding section and the agent shall be responsible to the holders of the claims and the owner for the due application of the proceeds of the crop in accordance with that section, and shall be liable to the penal provisions thereof on the information of the persons therein named or of the owner.

(2) Any owner or other person obstructing the petitioner or his agent shall be guilty of a misdemeanour and on conviction thereof shall be liable to be imprisoned for any term not exceeding six months.

Penalty for obstruction.

11.—(1) Every owner or his attorney who obtains a loan on the security of his crop under this Ordinance shall keep in the books of the land on which the crop is growing a particular account in writing of the amount of money so borrowed and the application thereof, showing the balance in hand unapplied from time to time.

Account to be kept by owner of application of loan. Disposal of unapplied part if land is taken in execution.

(2) If execution is issued against that land before all the moneys are applied, the owner or the attorney of the owner shall pay over any unapplied balance into the registry of court, to be dealt with in accordance with the order of the Supreme Court or any judge thereof, that order to be obtained on motion to be made by the execution creditor or, in case of his refusal to move, by the holder of any certificate of loan.

12. An owner or attorney who applies money borrowed under this Ordinance for any purposes other than those authorised by this Ordinance, or fails, neglects, or refuses, to apply it in accordance with this Ordinance, shall be guilty of felony, and shall on conviction thereof be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Misapplication of loan.

Felony.

Effect of Ordinance if lien-holder or creditor proceeds against the land.

13. Nothing in this Ordinance shall prevent the holder of any security of any nature or kind whatsoever against or affecting land for which advances have been made as aforesaid, or any creditor of the owner thereof, from taking proceedings for recovering any moneys due on his security or for taking that land in execution, but the amount due to anyone by whom the advances were made on account of the land shall be a lien, taking precedence of any sums advanced or procured by sequestrators, or of any other claim whatsoever (any law, rule or custom to the contrary notwithstanding), on the crop or crops in respect of which the advances have been made before or after those proceedings are had or taken, and if the land is sold before the crop is reaped, then the person by whom the advances were made shall have in lieu of that lien a preferent lien on the proceeds of sale of the land, after the expenses of sale and debts due to the Crown, to the colony, and to the immigration fund have been paid in full.

Obtaining issue of loans in instalments.

14. An owner may at any time, on obtaining a loan and giving a certificate thereof, arrange that the loan shall form part of a larger loan to be then named, and in that case it shall be stated on the face of the certificate that the loan forms part of the greater loan, and all certificates issued by the owner to the extent of, and forming part of, the greater loan, and the moneys (principal and interest) thereby secured, shall in that case rank *pari passu*, notwithstanding the dates of issue or entry of those certificates.

Right of referring to loan book.

15. The loan book shall be open for reference to anyone desiring to see it, on paying therefor a fee of forty-eight cents.

Index to loan book.

16. The registrar shall keep an index to the various charges and loans and shall index each charge or loan under the initial letter of the name (if any) of the land and also under the initial letter of the name of the owner of the land.

Record of repayment of loans; schedule; form 4.

17. On payment of any loan or charge aforesaid, the owner, or other person paying it, shall obtain from the person entitled to the loan or charge a receipt for the money so paid, which receipt shall be indorsed on the certificate, and shall be in form 4 in the schedule hereto, or as near thereto as circumstances will admit; and on production of the receipt to the registrar the registrar shall enter the particulars thereof in the loan book against the entry of the certificate of loan or charge.

18. Every certificate of loan shall be transferable, and the transfer thereof shall be in form 5 in the schedule hereto, or as near thereto as circumstances will admit; and on production of any transfer the registrar shall enter the particulars thereof in the loan book against the entry of the certificate of that loan, and shall indorse the transfer on the certificate according to form 6 in the schedule hereto.

Transfer of certificates of loan; schedule; form 5;

form 6.

19. On delivering the notice mentioned in sub-section (1) of section seven of this Ordinance, the person delivering it shall pay to the registrar, in lieu of all fees for any proceeding in the deeds registry under this Ordinance in connection with the intended loan, including the cost of advertisement, the following sums, namely,—

Fee for giving, recording, transferring or discharging certificate.

if the loan to be obtained does not exceed			
\$1,000	\$ 5 00
if the loan to be obtained exceeds that sum and does not exceed \$2,500	\$10 00
if the loan to be obtained exceeds \$2,500	\$15 00

SCHEDULE.

FORM 1.

(Section 6.)

THE AGRICULTURAL RELIEF ORDINANCE.

[Plantation *or* land.]

I, _____ of _____ the owner of the above [plantation *or* land] do hereby certify that I have this day borrowed from _____ of _____ the sum of \$ _____ which sum is to carry interest at the rate of \$ _____ per centum per annum, and the said sum and interest thereon is to be repaid by me out of the proceeds of the following crops, namely: [*here specify the crops as accurately as possible*], and if not repaid thereout the unpaid part of that sum will become a lien on the said plantation [*or* land] as provided by the said Ordinance.

Here insert any covenants between the owner and the lender.

Given under my hand this _____ day of _____, 19 _____.

FORM 2.

(Section 7.)

THE AGRICULTURAL RELIEF ORDINANCE.

Plantation [*or* land.]

County of _____

Take notice that I, the owner of the above plantation [*or* land], am about to apply for a loan of \$ _____ under the above Ordinance. No money [*or* \$ _____ as the case may be] has been already borrowed under the said Ordinance in respect of this year's crop* [*or* crops as the case may be.]

*Specify crop.

Dated this _____ day of _____, 19 _____.

(Signed)

FORM 3.
(Section 7.)

I, _____ being a creditor of the said _____ [or having a mortgage or lien on the said _____ plantation or land] do hereby oppose his obtaining any loan under the Agricultural Relief Ordinance.

Dated this _____ day of _____, 19 _____.

(Signed)

FORM 4.
(Section 17.)

THE AGRICULTURAL RELIEF ORDINANCE.

I do hereby acknowledge to have received the whole amount of principal and interest secured to me by the within certificate dated the _____ day of _____, 19 _____ and given by _____ owner of above plantation [or land] to _____ under the above Ordinance.

Dated this _____ day of _____, 19 _____.

FORM 5.
(Section 18.)

THE AGRICULTURAL RELIEF ORDINANCE.

I, _____ of _____ Plantation [or land], do hereby transfer a certificate dated the _____ day of _____, 19 _____ made by _____ of _____, owner of above plantation [or land], under the above Ordinance, for securing the sum of \$ _____ and interest thereon, and the money thereby secured and all my right, title and interest in and to the same to _____ of _____

Dated this _____ day of _____, 19 _____.

FORM 6.
(Section 18.)

Transfer of within certificate to _____ of _____ recorded this _____ day of _____, 19 _____ Registrar of deeds.
