Conveyancing Act (Ireland) 1634

Chapter 3 (10 Chas.1 sess.2)

An Act against covenous and fraudulent conveyances.[1]

FORASMUCH as not onely the Kings most excellent Majesty, but also divers of his Highnesse good and loving subjects, and bodies politique and corporate, after conveyances obtained, or to be obtained, and purchases made, or to be made of lands, tenements, leases, estates and hereditaments, for money or other good considerations, may have, incurre, and receive great loss and prejudice, by reason of fraudulent and covenous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made or hereafter to be made, of, in, or out of lands, tenements, or hereditaments so purchased, or to be purchased; which such said gifts, grants, charges, estates, uses and conveyances were or hereafter shall be meant and intended by the parties that so make the same, to be fraudulent and covenous, of purpose and intent to deceive such as have purchased or shall purchase the same, or else by the secret intent of the parties, the same be to their owne proper use, and at their free disposition, coloured neverthelesse by a fained countenance, and shew of words and sentences, as though the same were made bona fide for good causes, and upon just and lawfull considerations. For remedy of which inconveniences, and for the avoyding of such fraudulent, fained, and covenous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing in the purchasing of lands, tenements and hereditaments;

Fraudulent conveyances, incumbrances, &c. to deceive purchasers, void as against them.

[I.] ALL and every conveyance, grant, charge, lease, estate, incumbrance and limitation of use, or uses, of in or out of any lands, tenements, or other hereditaments whatsoever had or made any time heretofore sithence the beginning of the raigne of King James, His Majesty of famous memory, or at any time hereafter to be had or made, for the intent and purpose to defraud and deceive such person or

persons, bodies politique or corporate, as have purchased, or shall afterwards purchase in fee simple, fee tayle, for life, lives or years, the same lands, tenements and hereditaments, or any part or parcell thereof so formerly conveyed, graunted, leased, charged, incumbred or limited in use, or to defraud and deceive such as have, or shall purchase any rent, profit or commodity, in, or out of the same, or any part thereof, shall be deemed and taken only as against that person or persons, bodies politique and corporate, his and their heires, successors, executors, administrators and assignes, and against all and every other person and persons, lawfully having or clayming, by, from or under them, or any of them, or to their, or any of their use or uses, which have purchased, or shall hereafter so purchase, for money or other good consideration, the same lands, tenements, or hereditaments, or any part or parcell thereof, or any rent, profit, or commodity, in, or out of the same, to be utterly void, frustrate, and of none effect; any pretence, colour, fained consideration, or expressing of any use or uses, to the contrary notwithstanding.

Penalty upon parties and privies, to fraudulent conveyances, if they avow or justify the same.

II. And all and every the parties to such fained, covenous and fraudulent gifts, grants, leases, charges, or conveyances before expressed, or being privy or knowing of the same, or any of them, which . . .[2] shall wittingly and willingly put in ure, avowe, maintaine, justifie or defend the same, or any of them, as true, simple, and done, had or made, bona fide, or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers, lessees or grauntees, or of, or to the disturbance or hinderance of their heirs, successors, executors, administrators or assignes, or such as have, or shall lawfully claime any thing by, from or under them, or any of them, or to their or any of their use or uses, shall incurr the penalty or forfeiture of one year's value of the said lands, tenements and hereditaments, so purchased or charged, . . .[2] to be received in any of the Kings courts of record, by action of debt, bill, plaint or information, . . .[3] and also being thereof lawfully convicted, shall suffer imprisonment for one half year, . . .[3].

One year's value of the lands purchased or charged, and one half year's imprisonment, upon conviction.

Conveyances on good consideration and bona fide not made void.

III. Provided also, That this act or any thing therein contained, shall not extend, or be construed to impeach, defeat, make voide, or frustrate any conveyance, assignement of lease, assurance, grant, charge, lease, estate, interest or limitation of use or uses, of, in, to, or out of any lands, tenements, or hereditaments heretofore at any time had or made, or hereafter to be had or made, upon or for good consideration, and bona fide, to any person or persons, bodies politique or corporate; any thing before mentioned to the contrary hereof notwithstanding.

Conveyance with power of revocation or alteration, void as against a subsequent bargain and sale,

IV. And if any person or persons have heretofore, sithence the beginning of the raign of our late most gracious soveraigne lord King James of ever blessed memory, made, or hereafter shall make any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements, or hereditaments, with any clause, provision, article, or condition of revocation, determination

or alteration, at his or their will or pleasure, of such conveyance, assurance, grants, limitations of uses or estates, of, in or out of the said lands, tenements, or hereditaments, or of, in, or out of any part or parcell of them contained or mentioned in any writing, deed, or indenture of such assurance, conveyance, grant or gift; and after such conveyance, grant, gift, demise, charge, limitation of uses or assurances so had or made, shall or doe bargaine, sell, demise, grant, convey, or charge the same lands, tenements, or hereditaments, or any part or parcell thereof, to any person or persons, body politicke or corporate, for mony, or other good consideration, paid or given, the said first conveyance, assurance, gift, grant, demise, charge or limitation, not by him or them revoked, made voide, or altered according to the power and authority reserved or expressed unto him or them, in and by the said secret conveyance, assurance, gift or grant; that then the said former conveyance, assurance, gift, demise, and grant, as touching the said lands, tenements, or hereditaments, so after bargained, sold, conveyed, demised, or charged, against the said bargainees, vendees, lessees, grauntees, and every of them, their heires, successors, executors, administrators and assigns, and against all and every person and persons which have, shall, or may lawfully claime any thing, by, from, or under them, or any of them, or to their or any of their use or uses, shall be deemed, taken and adjudged to be void, frustrate and none of effect, by vertue and force of this present act.

charge, &c. for money or other good consideration.

V. PROVIDED neverthelesse, that no lawfull mortgage made or to be made bona fide, and without fraud or covin, upon good consideration, shall be impeached or impaired by force of this act, but shall stand in like force and effect as the same should have done, if this act had never been had or made; any thing in this act contained to the contrary in any wise notwithstanding.

But no lawful mortgage bona fide and on good consideration to be impeached by this act.

Ss.VI–IX rep. by SLR (I) 1878

X. AND furthermore for the avoyding and abolishing of fained, covenous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suites, judgements and executions, as well of lands, and tenements, as of goods and chattels more commonly used and practised in these daies, then hath been seen or heard of heretofore; which feoffments, gifts, grants, alienations, bonds, suits, judgements and executions have been and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent to delay, hinder or defraud creditors and others of their just and lawfull actions, suits, debts, accompts, dammages, penalties, forfeitures, herriots, mortuaries, and reliefs, not onely to the lette or hinderance of the due course or execution of law and justice, but also to the overthrow of all true and plaine dealing, bargaining and chevisance between man and man, without the which no common wealth or civill society can be maintained or continued; All and every feoffment, guift, grant, alienation, bargaine and conveyance of lands, tenements, hereditaments,

Fraudulent conveyances, &c.

of lands or goods to avoid the debts or duties of others, void.

goods and chattels, or of any of them, or of any lease, rent, common, or other profit or charge out of the same lands, tenements, hereditaments, goods, and chattles, or any of them, by writing or otherwise, and all and every bond, suit, judgement and execution at any time had or made, sithence the beginning of the raign of his said late Majesty King James of blessed memory, or at any time hereafter to be had or made, to or for any intent or purpose before declared and expressed, shall be from henceforth deemed and taken onely as against that person or persons, his or their heires, successors, executors, administrators and assignes, and every of them, whose actions, suits, debts, accompts, dammages, penalties, forfeitures, herriots, mortuaries and reliefes, by such guilefull, covenous and fraudulent devises and practises, as is aforesaid, are, shall, or mought be in any wise disturbed, hindered, delayed or defrauded to be clearely and utterly void, and of none effect: any pretence, colour, fained consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

Parties or privies thereto that justify, alien, or assign, forfeit one years value of the lands, the whole value of goods, and the money contained in such covenous bond,

to be divided and recovered, and imprisonment upon conviction as aforesaid.

XI. And all and every the parties to such fained, convenous or fraudulent feoffment, gift, grant, alienation, bargaine, conveyance, bonds, suits, judgements, executions, and other things before expressed, or being privy and knowing of the same, or any of them, which at any time . . .[2] shall wittingly and willingly put in ure, avow, maintaine, defend or justifie the same, or any of them, as true, simple and done, had, or made bona fide, and upon good consideration, or shall alien or assign any the lands, tenements, goods, leases, or other things before mentioned to him or them conveyed, as is aforesaid, or any parte thereof, shall incurre the penalty or forfeiture of one year's value of the said lands, tenements, hereditaments, leases, rents, commons or other profits, of or out of the same, and the whole value of the said goods and chattels, and also so much money as is or shall be contained in any such covenous and fained bonds, . . .[2] to be recovered in any of the Kings courts of record, by action of debt, bill, plaint or information . . .[3] and also being thereof lawfully convicted, shall suffer imprisonment for one halfe yeare, . . .[3].

Ss.XII, XIII rep. by SLR (I) 1878

This act not to extend to conveyances upon good consideration and bona fide, without notice of such fraud.

XIV. Provided also, That this act, or any thing therein contained, shall not extend to any state or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattells, had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured; which estate or interest is or shall be upon good consideration and bona fide lawfully conveyed or assured to any person or persons, or bodies politique or corporate, not having at the time of such conveyance or assurance to them made, any manner of notice or knowledge of such covin, fraud, or collusion, as is aforesaid; any thing before mentioned to the contrary hereof notwithstanding.

S.XV rep. by SLR (I) 1878

References

1. Short title "The Conveyancing Act (Ireland) 1634", 1951 c.1 (NI)
   Am. as to voluntary conveyances made bona fide, 1893 c.21
2. Rep., SLR (NI) 1953
3. Rep., SLR 1948