

Redemption of Mortgages (Punjab) Act, 1913

Act 2 of 1913

Keyword(s):

Land, Mortgage, Title Deeds



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REDEMPTIONS OF MORTGAGES (PUNJAB) ACT, 1913

ACT No. 2 OF 1913

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'REDEMPTION OF MORTGAGES (PUNJAB) ACT, 1913

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(Received the assent of His Honour the Lieutenant-Governor of the Punjab on the 8th February, 1913, that of his Excellency the Viceroy and Governor-General on the 4th March, 1913, the Governor-General's assent was first published in the "Punjab Government Gazette" of 14th March, 1913.)

1	2	3	4
Year	No.	Short title	Whether affected by legislation
1913	2	The Redemption of Mortgages (Punjab) Act, 1913	Amended by ² Punjab Act 7 of 1934 (Part VII) Adapted by :— (1) The Government of India (Adaptation of Indian Laws) Order, 1937 (2) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 (3) Adaptation of Laws Order, 1950 (4) Adaptation of Laws (Third Amendment) Order, 1951 (5) Extended to the territories which, immediately, before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union by Punjab Act 18 of 1958 ³ (6) The Haryana Adaptation of Laws (State and Concurrent Subjects) Order, 1968 ⁴

1. For Statement of Objects and Reasons, see *Punjab Gazette*, 1912, Part V, page 183.
2. For Statement of Objects and Reasons, see *Punjab Gazette*, (Extraordinary), 1934, pages 23-24.
3. For Statement of Objects and Reasons, see *Punjab Gazette* (Extraordinary), 1958 page 546k.
4. For Statement of Objects and Reasons, see *Haryana Gazette* (Extraordinary), dated the 29th October, 1968.

**An act to provide a Summary Procedure for the
Redemption of certain Mortgages of Land in
¹[Haryana.]**

Preamble. Whereas it is expedient to provide a summary procedure for the redemption of certain mortgages of land in [¹Haryana];¹

It is hereby enacted as follows :

Title. 1. (1) This Act may be called the Redemption of Mortgages (Punjab) Act, 1913.

**Extent Limitation
of scope of Act to
certain
mortgages.**

(2) It extends to ¹[Haryana.]

(3) It shall apply only to mortgages of land —

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area ²[50 acres] ; or

(b) in which, whatever the area, the principal money secured under the mortgage does not exceed ³[5,000] rupees :

Provided that it shall not apply to any mortgage made under section 6 of the ⁴Punjab Alienation of Land Act, 1900 ⁵[or the Patiala Alienation of Land Act, 1972 Bk.]

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes —

(a) the sites of building and other structures on such land ;

(b) a share in the profits of an estate or holding ;

1. Substituted for the word “Punjab” by Haryana Adaptation of Laws (State and Concurrent Subjects) Order, 1968.
2. Substituted by Punjab Act 7 of 1934, for “30 acres”.
3. Substituted by *ibid*, for “1,000”.
4. Now stand repealed by Adaptation of Laws (Third Amendment) Order, 1951.
5. The words “or the Patiala Alienation of Land Act, 1972 Bk.” added by Punjab Act No. 18 of 1958, section 4 (2).

- (c) any dues or any fixed percentage of the land revenue payable by an inferior land-owner to a superior land-owner ;
- (d) a right to receive rent ;
- (e) any right to water enjoyed by the owner or the occupier of land as such ; and
- (f) any right of occupancy ;

(2) the expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade ;

(3) "prescribed" shall mean prescribed by rules made under this Act.

16 of 1887. 3. Subject to the provisions of this Act and the rules thereunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, shall, so far as may be, apply to all proceedings of a Collector under this Act.

Application of certain sections of Punjab Tenancy Act.

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector.

Petition for redemption.

Verification.

Deposit.

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Particulars to be contained in petition.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

Mortgagee to be summoned.



Procedure when
petitioner is
absent and
mortgagee
present.

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order —

- (a) that the mortgage be redeemed ;
- (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgage ;
- (c) that the mortgagee deposit with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner ;
- (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him :

Provided that no such order shall be made in consistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

Procedure when
petitioner is
present and
mortgagee
absent.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, enquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

If the Collector is satisfied that the petitioner is entitled to redeem but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further

period not exceeding 30 days as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

8. Where both parties appear when the petition is called on for hearing, the Collector shall enquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

Procedure when both parties are in attendance, order for redemption.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in section 6(a), (b), (c) and (d) of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall enquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6(a), (b), (c) and (d) above.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petitioner, or (b) make a summary enquiry regarding the objection raised by the mortgagee or regarding the sum due.

Procedure in contentious cases.

10. If on enquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition ; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

Enquiry into objection raised by mortgagee.



Enquiry regarding sum due.

11. If on enquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in section 6(a), (b), (c) and (d) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6(a), (b), (c) and (d) of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Saving of suits to establish rights.

12. Any party aggrieved by an order made under sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage; but, subject to the result of such suit, if any, the order shall be conclusive.

Setting aside *ex-parte* orders or orders of dismissal.

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside and the Collector may in his discretion set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit, provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

No second petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

Return of deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

Deposit not to be attached.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.



16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Cessation of interest.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit :

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money :

Provided also that where a suit is instituted under section 12, the Court may pass such order as to interest as it deems fit.

17. The '[State] Government shall have power to make rules, consistent with this Act, for carrying out the purposes of this Act.

Power to make rules.

