

Rhodes Trust Act 1901

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An Act enabling the Trustees for the Time Being of the Will of the late Honourable William Barnard Rhodes, deceased, to sell and grant Leases of certain Lands situate in the Provincial District of Wellington, and subject to the Trusts of the said Will.

Preamble

WHEREAS the said William Barnard Rhodes, deceased, was at the time of his death seised of an estate in fee-simple of certain lands in the Provincial District of Wellington: And whereas since his death other lands in the said provincial district have been acquired by the trustees of the said will under the powers of investment in the said will contained: And whereas the said William Barnard Rhodes died on the eleventh day of February, one thousand eight hundred and seventy-eight, having made his last will and testament: And whereas the said will was duly proved in the High Court of New Zealand, and registered in the District Land Registry at Wellington as "No 36774": And whereas Sarah Anne Rhodes, the wife of the said testator, survived him and is still living, but there was no issue of their marriage: And whereas Mary Ann Rhodes, daughter of the

said testator, mentioned in the said will, was declared by a decree of the High Court of New Zealand to be entitled under the trusts of the said will to a life interest in the residuary real and personal estate of the said William Barnard Rhodes: And whereas the said Mary Ann Rhodes intermarried with Edward Moorhouse, of Spratton Grange, Northampton, in England, Gentleman: And whereas the issue of the said marriage consists of four children, who are all infants: And whereas the said will gave to the trustees thereof no power to sell or lease any of the said lands: And whereas the said will contains, *inter alia*, the following clause, that is to say:—

“And I direct my said trustees to permit and suffer my said wife Sarah Anne so long as she shall continue to be my widow to occupy and enjoy but not to let for more than two years all my freehold and leasehold property in the District of Rhodes or its vicinity known as Highland Park or Wadestown with all the appurtenances thereto and also the goods chattels carriages plate furniture horses stock and increase thereon with full power from time to time to dispose of the surplus live stock thereon for her own benefit my said wife during her said occupancy keeping my mansion on the said lands with the furniture plate carriages and other chattels in and about the premises insured from loss or damage by fire for an amount not exceeding on the whole the sum of ten thousand dollars in the names of the trustees and in good repair reasonable wear and tear only excepted: And also keeping in good order and condition the fences gardens ornamental grounds and appurtenances thereunto belonging and also painting the said mansion and premises once in every two years and keeping the said estate adequately stocked and free from stray gorse all to the satisfaction of my trustees other than my said wife who in case of default are hereby authorised to do the said works and from time to time to deduct the cost thereof from any annual income hereby provided to be paid to her.”

And the said will contains also the following clause:—

“And I direct that during such occupancy of my said mansion by my said wife and while she shall continue to be my widow and in case of her absence therefrom not exceeding two years during such absence there shall be annually paid to her (in addition to any sum or property heretofore settled upon

her by me) the sum of four thousand dollars per annum by equal quarterly payments and also to her or her executor a proportionate sum for any broken period which annual sum shall be so paid among other things for the purpose of keeping up the said mansion and estate both freehold and leasehold in a proper manner and of paying the rates taxes rents insurances and other charges thereon to the satisfaction of the other of my said trustees. In default whereof I authorise the other of my said trustees to effect any needful repairs to the said mansion and hereditaments and to pay the rents rates taxes insurance and other charges thereon and deduct the amount thereof from the said annual sum of four thousand dollars but my said trustees shall not for the purpose of such repairs insurance rents rates or other purposes in case of default as aforesaid expend and deduct from such annual sum of four thousand dollars more than one thousand five hundred dollars in any one year.”

And whereas the said Highland Park Estate is situated close to the City of Wellington, and is especially suitable for residential building purposes: And whereas the granting to the said trustees of adequate powers of leasing and sale over the said lands in the Provincial District of Wellington will be of great benefit to all the beneficiaries of the said will, and will enable land which cannot now be used for close settlement, though well adapted therefor, to be so used: And whereas the objects of this Act are not attainable otherwise than by legislation:

The expressions “ten thousand dollars”, “four thousand dollars” and “one thousand five hundred dollars” were substituted, as from 10 July 1967, for the expressions “five thousand pounds”, “two thousand pounds” and “seven hundred and fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

The words “High Court” were substituted, as from 1 April 1980, for the words the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title

The Short Title of this Act is The Rhodes Trust Act 1901.

2 Interpretation

In this Act the expression **the trustees** means the trustees for the time being of the said will.

3 Power to trustees, with consent, to sell and grant leases

The trustees may, with the consent of the said Sarah Anne Rhodes and Mary Ann Moorhouse during their respective lives, and after the deaths of them both at the discretion of the trustees, exercise over all or any part or parts of the lands situated in the Provincial District of Wellington vested in the trustees such powers of sale and leasing under The Leases and Sales of Settled Estates Act 1865 [*Repealed*], as they could have been authorised by the High Court to exercise under the said Act and its amendments if the consents of all beneficiaries had been obtained and no prohibition against sale or leasing had been contained or implied in the said will; and also such powers under section fourteen of the said Act as they could have been authorised by the High Court to exercise if the consents of all beneficiaries had been obtained and no prohibition against the exercise of such powers had been contained or implied in the said will.

The words “High Court” were substituted, as from 1 April 1980, for the words the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

4 Saving rights of widow

The exercise of the powers of sale and leasing in the last preceding section hereof contained over the said mansion shall not abrogate or suspend the right of the said Sarah Anne Rhodes to any income to which she would have been entitled if she had continued in occupation thereof.

5 Allocation of moneys

All moneys to be received on any sale or sales shall be paid to the trustees, to be invested by them in accordance with the trusts of the said will; and all dividends, interest, and income produced by such investments, and all rents derived from any lease or leases of all or any of the said lands, shall be paid to the person or persons (if any) who, but for such sale or lease, would have been for the time being beneficially entitled to the occupation of the land in respect of which such money shall have been received; and if there shall be no person so entitled, such dividends, income, interest, and rents shall be part of the general income of the said estate, and dealt with accordingly.