

No. 321, S.]

[Published May 2, 1899.]

CHAPTER 300.*

AN ACT to provide for the sale or other disposition of future contingent interests in lands.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Any real estate or interest therein which may at any time in the future be owned or possessed by any after born child or by any person, whether in being or not, known or unknown, who shall or may become interested therein under and by virtue of any deed or other instrument, or by any last will and testament, may be sold, mortgaged, leased or otherwise disposed of as hereinafter provided.

Future contingent interest may be sold, etc.

SECTION 2. The application for such sale or other disposition may be made to the circuit, county or superior court of the county in which such real estate or some part or interest therein is situated, or to the circuit judge in vacation, by the petition of any one or more of the parties having any title to or interest in said lands, who are living at the time of such petition. If any of the petitioners are infants, the said petition shall be signed by the general guardian of such infants. Such petition must be verified, and must set forth the facts which would authorize the selling, mortgaging, leasing or otherwise disposing of such real estate or some part thereof or interest therein, for one or more of the reasons set forth in section 3503 of the statutes of 1898 for the sale or other disposition of the real estate or interests therein of infants. Such lands or interests therein shall be sold, mortgaged, leased or otherwise disposed of in such manner as will best promote the interests of those concerned,

Application for sale, how made.

*See chapter 342, laws of 1899.

whether in being or not, and whether their interests are present or contingent.

Court to appoint referee, referee to give bond.

SECTION 3. Upon such application being made the said court or circuit judge must appoint some suitable person as referee, to whom and under whose direction the sale, mortgaging, leasing or other disposition of said lands or interest shall be made, which said referee shall give a bond to the clerk of the court in which such proceedings shall be commenced, in such amount, with such sureties and in such form as the said circuit, county or superior court or circuit judge shall direct, conditioned for the faithful performance of the trust reposed, for paying over, investing or accounting for all moneys that shall be received by such referee according to the order of any court having authority to give directions in the premises and for observance of the directions of the court in relation to the said matter.

Court to examine into merits of application.

SECTION 4. Upon the presentation of said petition and the filing of such bond, either such court or the circuit judge may proceed in a summary manner to inquire into the merits of such application, or make an order referring it to some suitable person as referee to inquire into and report upon the matters contained in such petition, whose duty it shall be to examine into the truth of the representations made, to hear the parties interested in the property or otherwise interested in the application, and report thereupon with all convenient speed.

Court to make order for disposition of interest.

SECTION 5. If, after the examination of the matter by the court to which application is made, or by the circuit judge without a reference, or on the coming in of the report of the referee, and on examination of the matter it shall satisfactorily appear that a sale, mortgage, lease or other disposition of the whole or any part of the said real estate or interest therein is necessary or proper, such court or the circuit judge shall make a final order directing the sale, mortgaging, leasing or other disposition of such real es-

tate or interest therein or of such part thereof as the court or judge shall deem proper to be made by the referee so appointed, in such manner and with such restrictions as shall be deemed expedient.

SECTION 6. No such sale, mortgage, lease or other disposition of said property shall be made until an agreement therefor shall be entered into by such referee, subject to the approval of the proper court or the circuit judge. Upon the confirmation of such agreement by such court or judge, the said referee must execute a deed, mortgage, lease or other instrument of conveyance as directed by the said order of confirmation or approval.

No disposition to be made without order.

SECTION 7. Every deed, mortgage, lease or other conveyance made in good faith by the referee pursuant to any order or judgment of the circuit, county or superior court or the circuit judge, made under the provisions of this act, shall be valid and effectual to vest in the purchaser, mortgagee, lessee or other party under such conveyance, a good and sufficient title as against all persons having, or who may have, any title to or interest or estate in the said lands or interest therein, whether in being or not, under or by virtue of the terms of any deed or other instrument, or under and by virtue of any last will and testament, and the court may require any or all parties who are living having any interest in said lands or interest, to join said referee in the execution of said instrument of conveyance and release all their interests therein.

Conveyance by referee, under order of court, to vest title.

SECTION 8. No sale, mortgage, lease or other conveyance made as aforesaid of the real estate or any interest therein of any party, whether in being or not, shall give to such party any other or greater interest or estate in the proceeds of such sale, mortgaging or other disposition of said lands or interest therein than he had in the estate so sold or disposed of, but the said proceeds shall be deemed real estate of the same nature as the property sold.

Interest of party in proceeds of sale.

Proceeds to be placed in trust by order of court.

SECTION 9. The proceeds of the said sale, mortgage, lease or other conveyance of said real estate, after payment under the direction of the said court or the said circuit judge of the costs and expenses of the said proceedings, shall be at once or from time to time paid to some trustee or trust company to be designated by the court, and by him or it held, invested and disposed of in such manner and for such time as shall be designated by said court, or circuit judge, for the benefit of such person or persons as may be or become interested in said lands or interests under and by virtue of said deed or other instrument or said will and testament, and the said proceeds, as well as the interest and income thereof, shall at all times abide the order of said court.

Proceedings to be in rem against land.

SECTION 10. The proceeding under this act shall be deemed to be a proceeding *in rem* against said land or interest therein, and the final order of said court providing for the sale, mortgaging, leasing or other disposition of the same shall operate directly on said land and shall be as valid, effectual and binding as though the party to be affected thereby were then living or had a present vested interest in the same.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved April 29, 1899.