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STATUTORY RULES OF NORTHERN IRELAND

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**1981 No. 225**

**County Court Rules (Northern Ireland) 1981**

**ORDER 34**

**Sale of land by the court**

**Application of this Order**

1. This Order shall apply to the conduct of a sale which is to be retained within the court.

**Approval of judge or reserved bidding**

2. The sale shall be subject to the approval of the judge or to a reserved bidding to be fixed by the court.

**Counsel, valuers and auctioneers**

3. The judge may from time to time appoint court conveyancing counsel, court valuers and court auctioneers, either generally or for particular sales, at such scales of fees as he may fix; and in default of any such appointments by the judge, the circuit registrar may nominate or approve appointments for particular sales.

**Bidding by parties**

4. A party to the suit shall not bid at the sale unless liberty to bid is given in the order for sale or the permission of the judge is obtained on application made on notice to the other parties to the suit.

**Lodgment and approval of documents**

- 5.—(1) The solicitor for the party having carriage shall lodge in the Office for the approval of the circuit registrar and his directions thereon—

- (a) all documents of title in his possession or power;
- (b) unless dispensed with by the circuit registrar, the abstract of title;
- (c) draft particulars and conditions of sale in Form 154;
- (d) a draft advertisement; and
- (e) if so directed by the circuit registrar, a draft case for court counsel, drawing attention to any difficulties in connection with the title or the actual occupation of the property requiring special mention in the conditions of sale.

- (2) The above documents when approved by the circuit registrar together with a copy of the certificate of the circuit registrar on his inquiry as to incumbrancers shall, if so directed by him, be submitted to court counsel and, where no such direction is given, the documents mentioned in Rule 7 may be lodged for approval in the Office at the same time as the documents mentioned in paragraph (1).

### **Joining of persons not before the court**

6. If counsel advises that any person necessary to make title is not before the court, the consent of such person to the sale and his undertaking to join in the purchase deed shall be procured in writing, and his signature verified by affidavit and failing such consent, notice of the order for sale shall be served on such person.

### **Procedure following return of papers from counsel**

7. On receiving the papers back from counsel, the solicitor having carriage shall—
- (a) re-lodge the papers in the Office for settling and fixing of dates by the circuit registrar and shall at the same time lodge—
    - (i) draft form of affidavit to be made by the court valuer in Form 155;
    - (ii) draft reserved bidding report in Form 156, to be marked as exhibit “B” to such affidavit;
    - (iii) an envelope marked “B” and endorsed with the title of the suit, to contain the valuer's reserved bidding report when completed;
    - (iv) draft auctioneer's affidavit of biddings in Form 157; and
    - (v) draft bidding paper in Form 158; and
  - (b) send to the court valuer a copy of the advertisement and the documents mentioned in subparagraphs (i) to (iii) of paragraph (a) together with a covering letter instructing him as to—
    - (i) the completion and return to the solicitor of the affidavit mentioned in paragraph (a) (i) with the copy advertisement marked as exhibit “A” thereto; and
    - (ii) the completion and forwarding to the Office, before the date fixed for the sale, of the reserved bidding report mentioned in paragraph (a)(ii), which report shall be marked as exhibit “B” to the affidavit.

### **Attendance at sale**

8. The solicitor having carriage shall attend the sale and arrange for the completion by the court auctioneer of the documents mentioned in Rule 7(a)(iv) and (v), and re-lodging of all papers in the Office.

### **Where sale is subject to approval of judge**

9. Where a sale is subject to the approval of the judge—
- (a) the certificate of the circuit registrar shall be in Form 159; and
  - (b) the solicitor having carriage shall on notice to the proposed purchaser and the other parties make application to the judge by notice of motion in Form 160 for confirmation of the sale, and the judge may either confirm the sale by order in Form 161 or make such other order thereon as he thinks fit having regard to the court valuer's report and the biddings.

### **Where sale is subject to reserved price**

10.—(1) Where the sale is subject to a reserved price fixed by the court, the purchaser or his solicitor may attend the sitting of the circuit registrar on the day fixed by the advertisement, and if there be any objection to the confirmation of the sale it shall be stated at that sitting.

(2) Where the reserved price fixed by the court has been reached the circuit registrar may confirm the sale by certificate in Form 162 and direct that the deposit be forthwith lodged in court to the

credit of the suit and the certificate of the circuit registrar confirming the sale shall be binding on all parties from the date thereof unless it is discharged or varied upon application to the judge by notice of motion made before the expiration of eight days from that date.

(3) Where the circuit registrar refuses to confirm the sale, he shall certify his refusal in Form 163 and direct that further proceedings shall be by way of either—

- (a) an application to the judge under Rule 9; or
- (b) advertisement for re-sale by tender, subject to the approval of the judge with such consequential directions thereon as he considers necessary;

and where he directs further proceedings under paragraph (b) he shall order the return of the deposit made by the highest bidder.

### **Order for execution of conveyance or for possession**

**11.** A notice of motion for an order for the execution of a conveyance or for possession shall be in Form 164, an order for the execution of a conveyance shall be in Form 165 and an order to put a purchaser in possession shall be in Form 166.