Superseded by Act 254

FEDERATION OF MALAYA.

No. 4 OF 1953.

THE LIMITATION ORDINANCE, 1953.

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Superseded by Act 254

FEDERATION OF MALAYA.

No. 4 OF 1953.

THE LIMITATION ORDINANCE, 1953.

Their Highnesses the Rulers of the Malay States assent hereto

I assent

Rulers' Seal

Public Seal of the Federation

Witnesses to the affixing of the Rulers' Seal :

ABU BAKAR BIN ABDULLAH
(IN MALAY)
Sultan of Pahang.

G. W. R. TEMPLER,
High Commissioner.

RAJA YUSSUF *Sultan of Perak.*

31st January, 1953.

30th January, 1953.

L.N. 332/58

An Ordinance to provide for the limitation of actions and arbitrations.

[*19th February, 1953.*]

IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of Malay States with the advice and consent of the Legislative Council as follows:

PART I.

Short title.

1. This Ordinance may be cited as the Limitation Ordinance, 1953.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires—

"action" includes a suit or any other proceeding in a court of law;

"land" includes things attached to the earth or permanently fastened to anything attached to the earth, rent charges and any legal or equitable estate or interest in land including an interest in the proceeds of sale of land held upon trust for sale but save as aforesaid does not include any right of way, easement, servitude, profit over or in respect of land, or right in the nature of an easement, servitude or profit over or in respect of land, or any other incorporeal hereditament;

"personal estate" and "personal property" do not include land or chattels real;

"rent" includes a rent charge and a rent service;

"rent charge" means any annuity or periodical sum of money charged upon or payable out of land except a rent service or interest on the mortgage or charge of land or a rent payable to the ~~Crown or a Ruler~~ in respect of the grant or lease ~~of Crown land or the~~ alienation of State land;

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"trust" and "trustee" have the same meanings respectively as in the Trustee Ordinance, 1949.

No. 66 of 1949.

(2) For the purposes of this Ordinance, a person shall be deemed to be under a disability while he is an infant or of unsound mind.

(3) A person shall be deemed to claim through another person, if he became entitled by, through, under, or by the act of that other person to the right claimed :

Provided that a person becoming entitled to any estate or interest by virtue of a special power of appointment shall not be deemed to claim through the appointor.

(4) References in this Ordinance to a right of action to recover land shall include references to a right to enter into possession of the land or in the case of rent charges any right to distrain for arrears of rent and references to the bringing of such an action shall include references to the making of such an entry or distraint.

(5) References in this Ordinance to the possession of land shall, in the case of rent charges, be construed as references to the receipt of the rent, and references to the date of dispossession or discontinuance of possession of land shall, in the case of rent charges, be construed as references to the date of the last receipt of rent.

(6) In Part III of this Ordinance references to a right of action shall include references to a cause of action and to a right to receive money secured by a mortgage or charge on any property or to recover proceeds of the sale of land, and to a right to receive a share or interest in the personal estate of a deceased person; and references to the date of the accrual of a right of action shall—

(*a*) in the case of an action for an account, be construed as references to the date on which the matter arose in respect of which an account is claimed;

(*b*) in the case of an action upon a judgment, be construed as references to the date on which the judgment became enforceable;

(*c*) in the case of an action to recover arrears of rent or interest, or damages in respect thereof, be construed as references to the date on which the rent or interest became due.

Saving for other limitation enactments.

3. This Ordinance shall not apply to any action or arbitration for which a period of limitation is prescribed by any other written law or to any action or arbitration to which ~~the Crown or~~ the Government

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or the Government of any State ~~or Settlement~~ is a party and for which if it were between subjects a period of limitation would have been prescribed by any other written law.

Limitation not to operate as a bar unless specially pleaded.

4. Nothing in this Ordinance shall operate as a bar to an action unless this Ordinance has been expressly pleaded as a defence thereto in any case where under any written law relating to civil procedure for the time being in force such a defence is required to be so pleaded.

PART II.

Part II to be subject to provisions of Part III.

5. The provisions of this Part shall have effect subject to the provisions of Part III of this Ordinance.

ACTIONS OF CONTRACT AND TORT AND CERTAIN OTHER ACTIONS.

Limitation of actions of contract and tort and certain other actions.

6. (1) Save as hereinafter provided the following actions shall not be brought after the expiration of six years from the date on which the cause of action accrued, that is to say—

(*a*) actions founded on a contract or on tort;

(*b*) actions to enforce a recognisance;

(*c*) actions to enforce an award;

(*d*) actions to recover any sum recoverable by virtue of any written law other than a penalty or forfeiture or of a sum by way of penalty or forfeiture.

(2) An action for an account shall not be brought in respect of any matter which arose more than six years before the commencement of the action.

(3) An action upon any judgment shall not be brought after the expiration of twelve years from the date on which the judgment became enforceable and no arrears of interest in respect of any judgment debt shall be recovered after the expiration of six years from the date on which the interest became due.

(4) An action to recover any penalty or forfeiture or sum by way of penalty or forfeiture recoverable by virtue of any Ordinance or other written law shall not be brought after the expiration of one year from the date on which the cause of action accrued:

Provided that for the purpose of this sub-section the expression "penalty" shall not include a fine to which a person is liable on conviction for a criminal offence.

(5) Nothing in this section shall apply to—

(*a*) any cause of action within the Admiralty jurisdiction of the High Court which is enforceable *in rem* other than an action to recover the wages of seamen, or

(*b*) any action to recover money secured by any mortgage of or charge on land or personal property.

(6) Subject to the provisions of sections 22 and 32 of this Ordinance the provisions of this section shall apply (if necessary by analogy) to all claims for specific performance of a contract or for an injunction or for other equitable relief whether the same be founded upon any contract or tort or upon any trust or other ground in equity.

Limitation in case of successive conversions and extinction of title of owner of converted goods.

7. (1) Where any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person and before he recovers possession of the chattel, a further conversion or wrongful detention takes place, no action shall be brought in respect of the further conversion or detention after the expiration of six years from the accrual of the cause of action in respect of the original conversion or detention.

(2) Where any such cause of action has accrued to any person and the period prescribed for bringing that action and for bringing any action in respect of such a further conversion or wrongful detention as aforesaid has expired and he has not during that period recovered possession of the chattel the title of that person to the chattel shall be extinguished.

Limitation of certain actions in respect of revenue matters.

8. An action—

(*a*) to set aside a sale in pursuance of the order of a Collector or other officer of revenue;

(*b*) to set aside a sale for arrears of Government ~~State or Settlement~~ revenue or for any demand recoverable as such arrears; L or State LN. 332/58

(*c*) to set aside any attachment, lease or transfer of immovable property by the revenue authorities for arrears of Government ~~State or Settlement~~ revenue; L or State LN. 332/58

(*d*) against the Government or the Government of any State ~~or Settlement~~ to recover money paid under protest in satisfaction

of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears,

shall not be brought after the expiration of one year from the date on which the sale is confirmed or would otherwise have become final or conclusive had no such action been brought or when the attachment ceased or transfer or payment was made, as the case may be.

ACTIONS TO RECOVER LAND AND RENT.

Limitation of actions to recover land.

9. (1) No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him, or if it first accrued to some person through whom he claims, to that person.

(2) Nothing in this section or in sub-section (2) of section 11 of this Ordinance shall be deemed to affect the provisions of the Crown Suits Ordinance, the Malacca Resurveys Ordinance or the Malacca Lands Customary Rights Ordinance of the Straits Settlements or the Penang Corrected Resurveys Ordinance, 1950, or to apply—

S.S. Cap. 43.
S.S. Cap. 132.
S.S. Cap. 125.
No. 57 of 1950.

(*a*) to the Ruler of any State, in respect of State land or land reserved for a public purpose situate in such State; or

(*b*) to any person registered under or by virtue of the provisions of the Land Code of the Federated Malay States or of any corresponding Land Enactment in force in any State as the proprietor of the land sought to be recovered, or to any person claiming through a person so registered, except to the extent that such Code or Enactment so provides or permits.

Accrual of right of claim in case of present interests in land.

10. (1) Where the person bringing an action to recover land or some person through whom he claims has been in possession thereof and has, whilst entitled thereto, been dispossessed or discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.

(2) Where any person brings an action to recover any land of a deceased person whether under a will or intestacy and the deceased person was on the date of his death in possession of the land and was the last

person entitled to the land to be in possession thereof the cause of action shall be deemed to have accrued on the date of his death.

(3) Where any person brings an action to recover land, being an estate or interest in possession assured otherwise than by will to him, or to some person through whom he claims, by a person who, at the date when the assurance took effect, was in possession of the land, or in the case of a rent charge created by the assurance, in possession of the land charged, and no person has been in possession of the land by virtue of the assurance, the right of action shall be deemed to have accrued on the date when the assurance took effect.

(4) A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the forfeiture was incurred or the condition broken:

Provided that, if such a right has accrued to a person entitled to an estate or interest in reversion or remainder and the land was not recovered by virtue thereof, the right of action to recover the land shall not be deemed to have accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

Accrual of right of action in case of future interests in land.

11. (1) Subject as hereafter in this section provided, the right of action to recover any land shall, in a case where the estate or interest claimed was an estate or interest in reversion or remainder or any other future estate or interest and no person has taken possession of the land by virtue of the estate or interest claimed, be deemed to have accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

(2) If the person entitled to the preceding estate or interest, not being a term of years absolute, was not in possession of the land on the date of the determination thereof, no action shall be brought by the person entitled to the succeeding estate or interest after the expiration of twelve years from the date on which the right of action accrued to the person entitled to the preceding estate or interest, or six years from the date on which the right of action accrued to the person entitled to the succeeding estate or interest, whichever period last expires.

(3) No person shall bring an action to recover any estate or interest in land under an assurance taking effect after the right of action to recover the land had accrued to the person by whom the assurance was made or some person through whom he claimed or some person entitled to a preceding estate or interest, unless the action is brought within the period during which the person by whom the assurance was made could have brought such an action.

(4) Where any person is entitled to any estate or interest in land in possession and, while so entitled, is also entitled to any future estate or interest in that land, and his right to recover the estate or interest in possession is barred under this Ordinance, no action shall be brought by that person, or by any person claiming through him, in respect of the future estate or interest, unless in the meantime possession of the land has been recovered by a person entitled to an intermediate estate or interest.

Provisions in case of settled land and land held on trust.

12. (1) Subject to the provisions of sub-section (1) of section 22 of this Ordinance, the provisions of this Ordinance shall apply to equitable interests in land, including interests in the proceeds of the sale of land held upon trust for sale, in like manner as they apply to legal estates, and accordingly a right of action to recover the land shall, for the purposes of this Ordinance but not otherwise, be deemed to accrue to a person entitled in possession to such an equitable interest in the like manner and circumstances and on the same date as it would accrue if his interest were a legal estate in the land.

(2) Where any land is held upon trust including a trust for sale, and the period prescribed by this Ordinance (if any) has expired for the bringing of an action to recover the land by the trustees, the estate of the trustees shall not be extinguished if and so long as the right of action to recover the land of any person entitled to a beneficial interest in the land or in the proceeds of sale either has not accrued or has not been barred by this Ordinance, but if and when every such right of action has been so barred, the estate of the trustees shall be extinguished.

(3) Where any land is held upon trust, including a trust for sale, an action to recover the land may be brought by the trustees on behalf of any person entitled to a beneficial interest in possession in the

land or in the proceeds of sale whose right of action has not been barred by this Ordinance, notwithstanding that the right of action of the trustees would apart from this provision have been barred by this Ordinance.

(4) Where any land held on trust for sale is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and absolutely entitled thereto, no right of action to recover the land shall be deemed for the purposes of this Ordinance to accrue during such possession to any person in whom the land is vested as trustee, or to any other person entitled to a beneficial interest in the land or the proceeds of sale.

Accrual of right of action in case of certain tenancies.

13. (1) A tenancy at will shall, for the purposes of this Ordinance, be deemed to be determined at the expiration of a period of one year from the commencement thereof, unless it has previously been determined, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued on the date of such determination.

(2) A tenancy from year to year or other period, without a lease in writing, shall, for the purposes of this Ordinance, be deemed to be determined at the expiration of the first year or other period, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued at the date of such determination.

(3) Where any rent has subsequently to the determination of any tenancy been received in respect of the tenancy, the right of action shall be deemed to have accrued on the date of the last receipt of rent.

(4) Where any person is in possession of land by virtue of a lease in writing by which a rent of not less than ten dollars is reserved, and the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no rent is subsequently received by the person rightfully so entitled, the right of action of the last-named person to recover the land shall be deemed to have accrued at the date when the rent was first received by the person wrongfully claiming as aforesaid and not at the date of the determination of the lease.

(5) This section shall not apply to any tenancy at will or lease granted by ~~the Crown or by a Ruler~~ or by the Government of the Federation or of any State ~~or Settlement~~.

a Ruler or Governor LN 332/58

Accrual of right of action in case of forfeiture or breach of condition.

14. A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the forfeiture was incurred or the condition broken:

Provided that, if such a right has accrued to a person entitled to an estate or interest in reversion or remainder and the land was not recovered by virtue thereof, the right of action to recover the land shall not be deemed to have accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

Right of action not to accrue or continue unless there is adverse possession.

15. (1) No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as "adverse possession") and where under the foregoing provisions of this Ordinance any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall not be deemed to accrue unless and until adverse possession is taken of the land.

(2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in adverse possession, the right of action shall no longer be deemed to have accrued and no fresh right of action shall be deemed to accrue unless and until the land is again taken into adverse possession.

(3) For the purposes of this section—

(*a*) possession of any land subject to a rent charge by a person (other than the person entitled to the rent charge) who does not pay the rent shall be deemed to be adverse possession of the rent charge; and

(*b*) receipt of rent under a lease by a person wrongfully claiming, in accordance with sub-section (4) of section 13 of this Ordinance, the land in reversion shall be deemed to be adverse possession of the land.

Limitation of redemption actions.

16. When a mortgagee of land has been in possession of any of the mortgaged land for a period of twelve years, no action to redeem the land of which

the mortgagee has been so in possession shall thereafter be brought by the mortgagor or any person claiming through him:

Provided that where a mortgagee is by virtue of the mortgage in possession of any mortgaged land and either receives any sum in respect of the principal or interest of the mortgage debt or acknowledges in accordance with the provisions of section 27 of this Ordinance the title of the mortgagor, or his equity of redemption, an action to redeem the land in his possession may be brought at any time before the expiration of twelve years from the date of the payment or acknowledgment.

No right of action to be preserved by formal entry or continual claim.

17. For the purposes of this Ordinance, no person shall be deemed to have been in possession of any land by reason only of having made a formal entry thereon, and no continual or other claim upon or near any land shall preserve any right of action to recover the land.

Right of person out of possession extinguished.

18. At the determination of the period limited by this Ordinance to any person for bringing an action to recover land the right and title of such person to the land for the recovery whereof such action might have been brought within such period, shall be extinguished.

Administrator's claim to date back to death.

19. For the purposes of the provisions of this Ordinance relating to actions for the recovery of land an administrator of the estate of a deceased person shall be deemed to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.

Limitation of actions to recover rent.

20. No action shall be brought, or distress made, to recover arrears of rent, or damages in respect thereof, after the expiration of six years from the date on which the arrears became due.

ACTIONS TO RECOVER MONEY SECURED BY MORTGAGE OR CHARGE OR TO RECOVER PROCEEDS OF THE SALE OF LAND.

Limitation of actions to recover money secured by a mortgage or charge or to recover proceeds of the sale of land.

21. (1) No action shall be brought to recover any principal sum of money secured by a mortgage or other charge on land or personal property or to enforce such mortgage or charge, or to recover proceeds of the sale of land or personal property after the expiration of twelve years from the date when the right to receive the money accrued.

(2) No foreclosure action in respect of mortgaged personal property shall be brought after the expiration of twelve years from the date on which the right to foreclose accrued :

Provided that if, after that date the mortgagee was in possession of the mortgaged property, the right to foreclose on the property which was in his possession shall not, for the purposes of this sub-section, be deemed to have accrued until the date on which his possession discontinued.

(3) The right to receive any principal sum of money secured by a mortgage or other charge and the right to foreclose on the property subject to the mortgage or charge shall not be deemed to accrue so long as that property comprises any future interests or any life insurance policy which has not matured or been determined.

(4) Nothing in the preceding sub-sections of this section shall apply to a foreclosure action in respect of mortgaged land but the provisions of this Ordinance relating to actions to recover land shall apply to such an action.

(5) No action to recover arrears of interest payable in respect of any sum of money secured by a mortgage or other charge or payable in respect of proceeds of the sale of land, or to recover damages in respect of such arrears shall be brought after the expiration of six years from the date on which the interest became due :

Provided that—

(*a*) where a prior mortgagee or other incumbrancer has been in possession of the property mortgaged or charged, and an action is brought within one year of the discontinuance of such possession by the subsequent incumbrancer, he may recover by that action all the arrears of interest which fell due during the period of possession by the prior incumbrancer or damages in respect thereof, notwithstanding that the period exceeded six years;

(*b*) where the property subject to the mortgage or charge comprises any future interest or life insurance policy and it is a term of the mortgage or charge that arrears of interest

shall be treated as part of the principal sum of money secured by the mortgage or charge, interest shall not be deemed to become due before the right to receive the principal sum of money has accrued or is deemed to have accrued.

(6) This section shall not apply to any mortgage or charge on a ship.

ACTIONS IN RESPECT OF TRUST PROPERTY OR THE PERSONAL ESTATE OF DECEASED PERSONS.

Limitation of actions in respect of trust property.

22. (1) No period of limitation prescribed by this Ordinance shall apply to an action by a beneficiary under a trust, being an action—

(*a*) in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; or

(*b*) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his use.

(2) Subject as aforesaid, an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Ordinance, shall not be brought after the expiration of six years from the date on which the right of action accrued :

Provided that the right of action shall not be deemed to have accrued to any beneficiary entitled to a future interest in the trust property, until the interest fell into possession.

(3) No beneficiary as against whom there would be a good defence under this Ordinance shall derive any greater or other benefit from a judgment or order obtained by any other beneficiary than he could have obtained if he had brought the action and this Ordinance had been pleaded in defence.

Limitation of actions claiming personal estate of a deceased person.

23. Subject to the provisions of sub-section (1) of section 22 of this Ordinance, no action in respect of any claim to the personal estate of a deceased person or to any share or interest in such estate, whether under a will or on intestacy, shall be brought after the expiration of twelve years from the date when the

right to receive the share or interest accrued, and no action to recover arrears of interest in respect of any legacy, or damages in respect of such arrears, shall be brought after the expiration of six years from the date on which the interest became due.

PART III.

Extension of limitation period in case of disability.

24. (1) If on the date when any right of action accrued for which a period of limitation is prescribed by this Ordinance, the person to whom it accrued was under a disability, the action may be brought at any time before the expiration of six years, or in the case of actions to which sub-section (4) of section 6 or section 8 of this Ordinance applies, one year from the date when such person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation had expired:

Provided that in any case to which the provisions of section 29 of this Ordinance apply, this sub-section shall apply as if the date from which the period of limitation begins to run were substituted for the date when the right of action accrued.

(2) Where any such person as is referred to in sub-section (1) of this section was on such date under two disabilities or where before the disability which he was under on such date had ceased he was affected by another disability he shall be deemed for the purposes of this section to have continued under a disability until both such disabilities have ceased.

(3) When one of several joint-creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all. Where no such discharge can be given, time will not run as against any of them until all such persons cease to be under a disability or until one of them becomes capable of giving such discharge without the concurrence of the others whichever shall first occur.

(4) The foregoing provisions of this section shall take effect subject to the following provisos:

(*a*) nothing in such provisions shall affect any case where the right of action first accrued to some person not under a disability through whom the person under a disability claims;

(*b*) when a right of action which has accrued to a person under a disability accrues, on the death of that person while still under a disability, to another person under a disability, no further extension of time shall be allowed by reason of the disability of the second person;

(*c*) no action to recover land or money charged on land for which a period of limitation is prescribed under this Ordinance shall be brought by virtue of the provisions of this section by any person after the expiration of thirty years from the date on which the right of action accrued to that person or some person through whom he claims;

(*d*) nothing in such provisions shall apply to any action to recover a penalty or forfeiture, or sum by way thereof, by virtue of any written law, except where the action is brought by an aggrieved party.

Extension of limitation period where debtor administers estate of his creditor.

25. Where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for an action to recover the debt shall be suspended while the administration continues.

Fresh accrual of action on acknowledgment or part payment.

26. (1) Where there has accrued any right of action to recover land or to enforce a mortgage or charge in respect of land or personal property, and—

(*a*) the person in possession of the land or personal property acknowledges the title of the person to whom the right of action has accrued; or

(*b*) in the case of any such action by a mortgagee or chargee the person in possession as aforesaid or the person liable for the debt secured by the mortgage or charge makes any payment in respect thereof, whether of principal or interest,

the right shall be deemed to have accrued on and not before the date of the acknowledgment or last payment.

(2) Where any right of action has accrued to recover any debt or other liquidated pecuniary claim, or any

claim to the personal estate of a deceased person or to any share or interest therein, and the person liable or accountable therefor acknowledges the claim or makes any payment in respect thereof, the right shall be deemed to have accrued on and not before the date of the acknowledgment or the last payment:

Provided that a payment of a part of the rent or interest due at any time shall not extend the period for claiming the remainder of the rent or interest then due, but any payment of interest shall have effect, for the purposes of this sub-section only, as if it were a payment in respect of the principal debt.

Formal provisions as to acknowledgments and part payments.

27. (1) Every such acknowledgment as is referred to in section 26 or in the proviso to section 16 of this Ordinance shall be in writing and signed by the person making the acknowledgment.

(2) Any such acknowledgment or payment as is referred to in section 26 or the proviso to section 16 of this Ordinance may be made by the agent of the person by whom it is required to be made under that section, and shall be made to the person, or to an agent of the person, whose title or claim is being acknowledged or, as the case may be, in respect of whose claim the payment is being made.

Effect of acknowledgment or part payment on persons other than the maker or recipient.

28. (1) For the purposes of this Ordinance an acknowledgment of the title to any land, or mortgaged or charged property by any person in possession thereof shall bind all other persons in possession during the ensuing period of limitation.

(2) A payment in respect of a debt secured by a mortgage or charge by the mortgagor or any person in possession of the mortgaged or charged land or personal property shall, so far as any right of the mortgagee or chargee to foreclose or otherwise to recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.

(3) Where there are two or more mortgagors of land or personal property and the title or right to redemption of one of the mortgagors is acknowledged as aforesaid, the acknowledgment shall be deemed to have been made to all the mortgagors.

(4) An acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledgor and his successors but not any other person:

Provided that an acknowledgment made after the expiration of the period of limitation prescribed for the bringing of an action to recover the debt or other claim shall not bind any successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of the acknowledgment.

(5) A payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect thereof:

Provided that a payment made after the expiration of the period of limitation prescribed for the bringing of an action to recover the debt or other claim shall not bind any person other than the person making the payment and his successors, and shall not bind any successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of the payment.

(6) An acknowledgment by one of several personal representatives of any claim to the personal estate of a deceased person, or to any share or interest therein, or a payment by one of several personal representatives in respect of any such claim shall bind the estate of the deceased person.

(7) In this section the expression "successor," in relation to any mortgagee or person liable in respect of any debt or claim, means his personal representatives and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolve, whether on death or bankruptcy or the disposition of property or the determination of a limited estate or interest in settled property or otherwise.

Postponement of limitation period in case of fraud or mistake.

29. Where, in the case of any action for which a period of limitation is prescribed by this Ordinance, either—

(*a*) the action is based upon the fraud of the defendant or his agent or of any person through whom he claims or his agent; or

(*b*) the right of action is concealed by the fraud of any such person as aforesaid; or

(c) the action is for relief from the consequences of a mistake,

the period of limitation shall not begin to run until the plaintiff has discovered the fraud or the mistake, as the case may be, or could with reasonable diligence have discovered it:

Provided that nothing in this section shall enable any action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which—

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know or have reason to believe that any fraud had been committed; or

(ii) in the case of mistake, has been purchased for valuable consideration, subsequently to the transaction in which the mistake was made, by a person who did not know or have reason to believe that the mistake had been made.

PART IV.

Application of Ordinance and other limitation enactments to arbitrations.

30. (1) This Ordinance and any other written law relating to the limitation of actions shall apply to arbitrations as they apply to actions.

(2) Notwithstanding any term in any submission to the effect that no cause of action shall accrue in respect of any matter required by the submission to be referred until an award is made under the submission, the cause of action shall, for the purpose of this Ordinance and of any other such written law (whether in their application to arbitrations or to other proceedings), be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the submission.

(3) For the purpose of this Ordinance and of any such written law as aforesaid, an arbitration shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the submission provides that the reference shall

be to a person named or designated in the submission, requiring him or them to submit the dispute to the person so named or designated.

(4) Any such notice as aforesaid may be served either—

(*a*) by delivering it to the person on whom it is to be served; or

(*b*) by leaving it at the usual or last known place of abode in the Federation of that person; or

(*c*) by sending it by post in a registered letter addressed to that person at his usual or last known place of abode in the Federation,

as well as in any other manner provided in the submission; and where a notice is sent by post in a manner prescribed by paragraph (*c*) of this sub-section, service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

(5) Where the High Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the Court may further order that the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by this Ordinance or any such written law as aforesaid for the commencement of proceedings (including arbitration) with respect to the dispute referred.

(6) This section shall apply to an arbitration under any written law as well as to an arbitration pursuant to a submission, and sub-sections (3) and (4) thereof shall have effect, in relation to an arbitration under any written law, as if for the references to the submission there were substituted references to such of the provisions of the law or of any order, scheme, rules, regulations, or bye-laws made thereunder as relate to the arbitration.

(7) In this section the expressions "arbitration", "award" and "submission" have the same meanings as in the Arbitration Ordinance, 1950. No. 12 of 1950.

Provisions as to set-off or counter-claim.

31. For the purposes of this Ordinance, any claim by way of set-off or counterclaim shall be deemed to be a separate action and to have been commenced on the same date as the action in which the set-off or counterclaim is pleaded.

Acquiescence.

32. Nothing in this Ordinance shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence, laches or otherwise.

Application to ~~the Crown and~~ the Government.

d/LN.332/58

33. (1) Save as in this Ordinance otherwise provided and without prejudice to the provisions of section 3 of this Ordinance, this Ordinance shall apply to proceedings by or against ~~the Crown or~~ the Government in like manner as it applies to proceedings between subjects and for the purposes of this Ordinance a proceeding by petition of right shall be deemed to be commenced on the date on which the petition is presented :

d/LN.332/58

Provided that this Ordinance shall not apply to any proceedings ~~by the Crown or~~ by the Government for the recovery of any tax, duty or interest thereon or to any forfeiture proceedings under any written law in force in the Federation relating to customs duties or excise or to any proceedings in respect of the forfeiture of a ship.

d/LN.332/58

(2) For the purposes of this section proceedings by or against any Government Department or any officer ~~of the Crown or~~ of any Government as such or any person acting on behalf ~~of the Crown or~~ of the Government shall be deemed to be proceedings by or against ~~the Crown or~~ the Government ~~as the case may be.~~

d/LN.332/58

(3) In this section the expression "the Government" shall be deemed to include the Government of any State ~~or Settlement~~.

Provisions as to actions already barred and pending actions.

34. Nothing in this Ordinance shall—

(*a*) enable any action to be brought which was barred before the commencement of this Ordinance by any Ordinance or Enactment repealed by this Ordinance, except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with the provisions of this Ordinance; or

(*b*) affect any action or arbitration commenced before the commencement of this Ordinance or the title to any property which is the subject of any such action or arbitration.

Repeal.

35. The Ordinance and the Enactments specified in the Schedule to this Ordinance are hereby repealed.

The Limitation (Enemy Occupation) Ordinance, 1946, to apply to this Ordinance. No. 4 of 1946.

36. The Limitation (Enemy Occupation) Ordinance, 1946, shall have effect as if the reference therein to "existing laws" had included a reference to this Ordinance.

THE SCHEDULE.

(Section 35.)

S.S. Cap. 16	The Limitation Ordinance
F.M.S. Cap. 18	The Limitation Enactment
Johore Enactment No. 23	The Limitation Enactment
Kelantan Enactment No. 4 of 1930 ...	The Limitation Enactment, 1930
Kedah Enactment No. 60	Enactment No. 60 (Limitation)
Trengganu Enactment No. 20 of 1356	Limitation Enactment, 1356
Perlis Enactment No. 3 of 1344 ...	Limitation Enactment, 1344