

RIGHTS OF MORTGAGOR:

Following are the rights of the mortgagor:

(I) RIGHTS OF MORTGAGOR TO REDEEM: Section 60

At any time after the principal money has become due, the mortgagor has a right, on payment or tender, at a property time and place, of the mortgage money, to require the mortgagee,

(a) **Right to deliver mortgage deed**

To deliver to the mortgagor the mortgage deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee,

(b) **Right to demand delivery of possession**

Where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor

(c) **Right to re-transfer the property**

At the cost of the mortgagor wither to re transfer the mortgaged property to him or to such third person as he may direct or to execute and to have registered an acknowledgment in writing that any right in derogation

✓ of his interest transferred to the mortgagee has been extinguished.

- Provided that the right conferred by this section has not been extinguished by the act of the parties or by decree of a court.
- The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption.

✓ v.s. 900
Sec 60-61

REDEMPTION OF PORTION OF MORTGAGED PROPERTY:

A person interested in a share only of the mortgaged property to redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except only where a mortgagee, or, of there are more mortgagees than one, all such mortgagees, has or have acquired in whole or in part the share of a mortgagor.

Case Law: 1918 pat 322

A right to redeem means the right to back or set free by payment.

(II) RIGHT OF INSPECTION AND PRODUCTION OF DOCUMENTS: Section 60 (B)

A mortgagor, as long as his right of redemption subsists, shall be entitled at all reasonable times, at his request and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and made copies or abstract of or extracts from, documents of title relating to the mortgaged property which are in the custody or power of the mortgagee.

(III) RIGHTS TO REDEEM SEPARATELY OR SIMULTANEOUSLY: Section 61

A mortgagor who has executed two or more mortgages in favour of the same mortgagee shall, in the absence of a contract to the contrary, when the principle money of any two or more of the mortgages has become due, be entitled to redeem any one such mortgage separately, or any two or more of such mortgages together.

(IV) RIGHT OF USUFRUCTUARY MORTGAGOR TO RECOVER POSSESSION: Section 62

In the case of a usufructuary mortgage, the mortgagor has a right to recover possession of the property together with the

mortgage deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee,

- (a) Where the mortgagee is authorised to pay himself the mortgage money from the rents and profits of the property. When such money is paid.
- (b) Where the mortgagee is authorised to pay himself from such rents and profits or any part thereof a part only of the mortgage money. When the term, if any, prescribed for the payment of the mortgage money has expired and the mortgagor pays or tenders to the mortgagee the mortgage money or the balance thereof or deposits it in court as hereinafter provided.

(V) **ACCESSION TO MORTGAGE PROPERTY: Section 63**

Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, received any accession, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

(i) **ACCESSION ACQUIRED IN VIRTUE OF TRANSFERRED OWNERSHIP:**

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate possession or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accession must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the property from the destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal, or, where no such rate is fixed at the rate of nine percent per annum

(VI) **IMPROVEMENT TO MORTGAGED PROPERTY; Sec. 63-A**

(i) **CIRCUMSTANCES WHEN NO LIABILITY TO PAY COST:**

Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, been improved, the mortgagor, upon the redemption, shall, in the absence of a contract to the

contrary, be entitled to the improvement and the mortgagor shall not be liable to pay the cost thereof.

(ii) **CIRCUMSTANCES WHEN THERE IS LIABILITY TO PAY COST:**

Where any such improvement was effected at the cost of the mortgagee and was necessary to preserve the property from the destruction or deterioration or was necessary to prevent the security from becoming insufficient, or was made in compliance with the lawful order of any public servant or public authority, the mortgagor shall, in the absence of a contract to the contrary, be liable to pay the property cost thereof as an addition to the principal money with interest at the same rate as is payable on the principal, or where no such rate is fixed at the rate of nine percent per annum and the profits, if any, accruing by reason of the improvement shall be credited to the mortgagor.

(VII) **RENEWAL OF MORTGAGED LEASE: Section 64**

Where the mortgaged property is a lease, and the mortgagee obtains a renewal of the lease the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

(VIII) **MORTGAGOR HAS POWER TO LEASE: Section 65-A**

Subject to the provisions of sub-section 2, a mortgagor, while lawfully in possession of the mortgaged property, shall have power to make lease thereof which shall be binding on the mortgagee.

6. **LIABILITIES OF THE MORTGAGOR** 67-

Following are the liabilities of the mortgagor.

① (i) **Liability to Transfer valid Interest**

The mortgagor is liable to transfer valid interest to the mortgagee in respect of the mortgage property.

② (ii) **Liability to Defend Title**

The mortgagor is under liability to defend his own title if he is in possession of mortgage property and if mortgagee is in possession he must enable him to defend his property.

③ (iii) **Liability to pay Public Charges**

It is liability of the mortgagor to pay the public charges so long as the mortgagee is not in possession.

Repairs. Maintenance

(iv) ✓ **Liability to Pay Rents**

Where the mortgage property is a lease it is liability of mortgagor to pay the rent.

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(v) **Liability to pay interest and other Encumbrances**

It is liability to pay interest on the prior mortgage and discharge of such encumbrances at the proper time where the mortgagee is a subsequent of second mortgage.