

1984, chapter 80

**AN ACT RESPECTING THE IMMOVABLES
SITUATED AT NUMBERS 3470 AND 3480
SIMPSON STREET IN MONTRÉAL**

Bill 233

Introduced by Mr Harry Blank, Member for Saint-Louis

Introduced: 21 November 1984

Passage in principle: 20 December 1984

Passage: 20 December 1984

Assented to: 21 December 1984

Coming into force: 21 December 1984

Act amended: None





CHAPTER 80

An Act respecting the immovables situated at numbers 3470 and 3480 Simpson Street in Montréal

[Assented to 21 December 1984]

Preamble

WHEREAS Place 3470 Simpson Inc., in its capacity as the owner of the immovables situated at numbers 3470 and 3480 Simpson Street in Montréal, sold, in the course of the years 1982 and 1983, to 85 persons a total of 96 usufructs on dwellings in the immovables situated at numbers 3470 and 3480 Simpson Street in Montréal;

Whereas the sales of usufructs were made on the reliance of representations to the effect that the rights granted to the usufructuaries were similar to the rights of a co-proprietor in divided ownership; whereas the investment made by the usufructuaries did not present any risks and the loans that were to be contracted by the usufructuaries were to be repaid out of the revenues produced by the immovables and compensated by tax shields derived from the investment of the revenues;

Whereas, on the reliance of these representations, the usufructuaries made financial commitments by contracting personal loans greatly in excess of their power to repay;

Whereas the claims secured by hypothecs affecting the immovables were due on 1 November 1983 and whereas by reason of the number of real rights registered on the immovables and owing to the nature of the right of usufruct, no financial institution has agreed to lend to the owners and usufructuaries the necessary sum to repay the hypothecary claims now outstanding;

Whereas following the exercise by the creditors of their rights under a clause of assignment of rents included in the deed of hypothecary claim, from 1 November 1983, the rents collected by the hypothecary

creditors and their mandataries have been insufficient to cover the payment of accounts payable and hypothecary claims as and when they became due and whereas a considerable deficit has accumulated since 1 November 1983, the usufructuaries having remained powerless in that respect;

Whereas by reason of the considerable amount of financing already encumbering the immovables and owing to the operating deficit accumulated during the management of the hypothecary creditors or their mandataries, it is now impossible to obtain refunding for the debt on the immovables;

Whereas the hypothecary creditors have already instituted proceedings in view of exercising their rights under the resolutive clause and being declared the irrevocable owners of the immovables and have applied for the extinction and cancellation of the rights of the usufructuaries;

Whereas, in the event that the creditors are declared to be the owners of the immovables, the usufructuaries would lose all their rights and would have to assume, out of their personal property, the loans contracted for the purchase of usufruct on the immovables and would thereby find themselves in serious financial difficulties for several years;

Whereas it is expedient, for those reasons, to allow the registration of a declaration of co-ownership in respect of the immovables situated at numbers 3470 and 3480 Simpson Street, in Montréal, notwithstanding sections 51 to 54 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), on the condition, however, that the rights of the lessees of these immovables not be affected by the registration;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Declaration
of co-
ownership

1. Notwithstanding sections 51 to 54 of the Act respecting the Régie du logement, the owners of the immovables situated at numbers 3470 and 3480 Simpson Street in Montréal on the date of the signature of a declaration of co-ownership contemplated in articles 441*b* to 442*p* of the Civil Code, and the usufructuaries are authorized to register a declaration of ownership in respect of those immovables the cadastral description of which is as follows:

DESCRIPTION

Description

Lot number TWO THOUSAND TWO HUNDRED AND SEVENTEEN (2217) on the official cadastre of Saint-Antoine ward, registration division of Montréal, with buildings and appurtenances thereon erected and bearing numbers 3470 and 3480 Simpson Street in Montréal.

Description This description replaces the description appearing in the schedule by reason of the deposit of the plan and book of reference of that lot at the registry office of the registration division of Montréal.

Repossession prohibited **2.** In no case may the owner of a dwelling situated in any of the immovables contemplated in section 1 exercise, directly or indirectly, the right provided for under article 1659 of the Civil Code against a person who is a lessee on 21 December 1984.

Registration requirements **3.** The authorization contemplated in section 1 shall cease to exist and become void if the declaration of co-ownership contemplated in articles 441*b* to 442*p* of the Civil Code is not registered in respect of the immovables situated at numbers 3470 and 3480 Simpson Street, in Montréal, with the consent of a majority, in number, of the usufructuaries who have usufructuary rights in those immovables before 21 December 1984.

Existing rights **4.** The rights of creditors existing on 21 December 1984 and judicial proceedings and actions brought by them to that date are neither affected nor changed by this Act and, notwithstanding article 441*j* of the Civil Code, neither the consent to the declaration of co-ownership nor its registration may, except with the consent of the creditors, have the effect of dividing the hypothec, privilege or any real right held on that date on the immovables by the creditors, notwithstanding the fact that the value of each portion of co-ownership has been determined in the declaration of co-ownership.

Sale of portion **5.** The putting up for sale of a portion of co-ownership in the immovables situated at 3470 and 3480 Simpson Street in Montréal before or after the registration of the declaration of co-ownership shall be made by means of an offer to sell given to the prospective purchaser.

Offer to sell The offer to sell shall contain the name and address of the offeror and of the prospective purchaser, the sale price, the date of delivery and the real rights encumbering the portion offered for sale, an estimate of the annual payments or of certain charges that must be paid by the owners, a statement of the contracts relating to the administration of the immovables, a statement of the major repairs that must be made on the immovables, the source of financing for the project and the latest financial statements in respect of the immovables. A copy of this Act must be appended to the offer to sell.

Cancellation **6.** The purchaser of a portion of the immovables may, within ten days of acceptance of the offer to sell, cancel it by notifying the offeror thereof in writing.

Sale

7. In no case may the sale take place before the lapse of 15 days from acceptance of the offer of sale and in no case may the purchaser waive the delay prescribed.

Applicability of ss. 5-7

8. Sections 5 to 7 shall cease to apply on 31 December 1986.

Registration

9. A true copie of the purview of and of the schedule to this Act must be registered at the same time as the declaration of co-ownership; the registration is made by deposit.

Coming into force

10. This Act comes into force on 21 December 1984.

SCHEDULE

DESCRIPTION OF LOT 2217 OF THE CADASTRE OF SAINT-ANTOINE WARD, REGISTRATION DIVISION OF MONTRÉAL, BEFORE 7 NOVEMBER 1983

(1) Lot number TWO of the official subdivision of original lot number ONE THOUSAND SEVEN HUNDRED AND THIRTY-ONE (1731-2) and lot number THREE of the official redivision of lot U of the official subdivision of original lot ONE THOUSAND SEVEN HUNDRED AND TWENTY-SIX (1726-U-3) and bearing number 3470 Simpson Street, Montréal;

(2) Lot number ONE of the official subdivision of original lot number ONE THOUSAND SEVEN HUNDRED AND THIRTY-ONE (1731-1), lot number TWO of the official redivision of lot U of the official subdivision of original lot number ONE THOUSAND SEVEN HUNDRED AND TWENTY-SIX (1726-U-2) and lot number TWO of the official redivision of lot I of the official subdivision of original lot number ONE THOUSAND SEVEN HUNDRED AND TWENTY-SIX (1726-I-2) and bearing number 3480 Simpson Street, Montréal.