

CHAPTER 7.
CIVIL PROCEDURE.

RULES OF SALE.
RULES MADE UNDER SECTION 98.

1. These rules may be cited as the Rules of Sale.
2. All sales of immovable property shall be conducted personally by the qualified mukhtar and carried out in the town or village in which the property is situate unless otherwise provided for by the order of the Court or by special directions of the Principal Land Registry Officer of the District in which it is situate.
3. Every notice of sale shall be prepared and issued by the Land Registry Office of the District in which the property to be sold is situate, and shall be given-
 - (a) by posting a notice in the form contained in Appendix A hereto or to the like effect at the town, village or quarter at which the sale is appointed to be held; and
 - (b) by posting a notice in the form contained in Appendix B or to the like effect-
 - (i) at the town, village or quarter in which the property to be sold is situate;
 - (ii) at the Court House of the Court out of which the writ of sale has issued;
 - (iii) at such other place, if any, as may be directed by the Court or a Judge or by the Principal Land Registry Officer of the District:

Provided that where the sale is appointed to be held at the town, village or quarter in which the property is situate the notice referred to in (b) (i) need not be posted.

- 4.-(1) The Principal Land Registry Officer of the District, when fixing the date and place of sale shall pay special attention to the following facts in order to ensure that the property may be sold to the best advantage:-
 - (a) the kind of property to be sold;
 - (b) the season of the year.
- (2) No property shall be sold unless at least the fifteen days' notice required by law be duly given.
- (3) Where it is brought to the notice of the Principal Land Registry Officer of the District that the date fixed for the sale does not allow of the property being sold to the best advantage, he may alter the date of sale provided notice is given to the parties interested and to the public at least seven days prior to the date advertised.

- 5.-(1) The notice of sale required to be posted under rule 3 (a) shall be sent to the appropriate mukhtar who shall cause such notice to be duly posted at the place where public notices [*110] are usually posted and forward to the

Principal Land Registry Officer of the District a certificate stating the date and particulars of such posting.

(2) The notices of sale required to be posted under rule 3 (&) shall be posted by the Land Registry Office.

6. If it shall appear to the Court or a Judge or to the Principal Land Registry Officer of the District that any notice of the sale other than the posting of the printed notices hereinbefore mentioned ought to be given, or if the creditor, debtor or other person interested in the property to be sold shall desire that any such other notice be given, such other notice may be given at any time either before or after the posting of the printed notices hereinbefore mentioned.

7. Where the creditor, debtor or other person interested in the property shall require any such other notice as is mentioned in rule 6 to be given, he shall be at liberty to do all things necessary for the giving of such notice, subject to the approval of the Principal Land Registry Officer of the District.

8. The Land Registry Officer may defer issuing the printed notices of sale until the expenses to be incurred in carrying out the sale according to the order of the Court or according to the directions of the Principal Land Registry Officer of the District have been paid.

9.-(1) At the hour stated on the auction bill the auctioneer shall commence with the first lot; he shall declare the amount of the highest bid made to him in writing, together with the name of the bidder; he shall then call for oral bids and when it is apparent that no further bids are then forthcoming, he shall continue with the next lot on the auction bill in the same manner as with the first and so on with the remaining lots or so many of them as will cover the sum to be raised. He shall then state the highest bids received for each lot, call for further bids for any of the properties and if no bids are forthcoming, he shall declare the highest bidders and close the sale.

(2) In no case shall the auctioneer finally sell more properties than are required to cover the sum to be raised.

(3) Unless otherwise ordered by the Court or a Judge or unless special instructions are given by the Principal Land Registry Officer after application of the mortgagor or judgment debtor, house property will form the last lot to be sold.

(4) The auctioneer shall keep a separate record of all bids made for each particular lot put up for sale and shall attach such records to the auction bill on the completion of sale.

The record of the highest bids shall be signed or marked by the highest bidders and by the auctioneer. [*111]

(5) The auctioneer shall not proceed with the sale-

(a) if at any time before oral bids are received the judgment debtor or mortgagor, or someone on their behalf, shall pay to him such a sum as will cover the debt and all costs ; or

(b) if at any time during the sale the judgment debtor or mortgagor, or someone on their behalf, shall pay such a sum as with the sum at that moment realized by the sale will cover the debt and all costs.

10.-(1) Biddings by an agent shall be supported by-

(a) the written authority of the principal for the agent to act in his behalf; or

(b) the written statement of the agent declaring that the bidding was made on behalf of the principal named in the statement, to be furnished to the auctioneer at the close of the sale, when transfer of the property sold may be made direct to the principal:

Provided, however, that if the principal fails to comply with the conditions of rule 11, the agent shall be held to be the highest bidder.

(2) Biddings for minors shall be made by their natural guardians or by a person duly authorized by the District Court, or, in case of Moslems, by the Turkish Family Court.

11. Except when otherwise specified in the printed notices of sale or by special notice of the Principal Land Registry Officer of the District at the time of sale all properties shall be offered for sale on the following conditions :-

(a) that the person declared to be the highest bidder shall immediately after the biddings have closed pay to the auctioneer-

(i) In respect of every lot the bid for which does not exceed ten pounds, the full amount bid;

(ii) In respect of every lot the bid for which exceeds ten pounds, one-fifth of the amount bid, but in no case less than ten pounds;

(iii) In the case where no such payment is required by the notice of sale, the amount due to the auctioneer, in respect of his fees, according to the scale in rule 15,

together with the amount of the fees payable in respect of the registration of the property in the name of the highest bidder.

Judgment creditors may be allowed to accept highest bidders as good for the amount bid, provided they produce to the auctioneer a statement in writing to that effect from the Principal Land Registry Officer of the District; [*112]

(b) that if the highest bidder shall fail to comply with the provisions of condition (a) , the bidding shall thereupon be re-opened, and any loss which may result by reason of any subsequent highest bid falling short of the value of such original highest bid shall be made good by the original highest bidder, together with all expenses incurred in compelling him to make good the same;

(c) that the highest bidder shall attend at the Land Registry Office of the District not less than fifteen and not more than twenty-five days after the day of sale and will pay the balance of the purchase money, if any, or so much thereof as he may be required to pay;

(d) that the judgment creditor who has accepted a highest bidder as good for the amount bid shall attend at the Deputy Sheriff's office not less than fifteen and not more than twenty-five days after the day of the sale and give a discharge receipt for the sums bid by such highest bidders ;

(e) that if the highest bidder shall fail to comply with the provisions of condition (c), any sum that has been paid by way of deposit shall be wholly forfeited and applied after deducting the auctioneer's fees in liquidation of the claim in satisfaction of which the sale has been ordered; that the property may again be put up for sale in the same way as though no previous sale had taken place, to recover the balance still due, and that should the highest bid at the subsequent sale fall short of the amount bid by the highest bidder at the previous sale, the difference shall be made good by him together with all

expenses incurred in respect of the subsequent sale and in compelling him to make good the difference.

(f) that, should the judgment creditor, who has accepted a highest bidder as good for the amount bid, fail to comply with the provisions of condition (d), he shall be liable to the same penalties as the highest bidder under condition (e);

(g) that the liability of the highest bidder or judgment creditor who accepts the highest bidder as good for the amount bid under the foregoing conditions shall not be in any way affected by reason of any proceedings that may be taken against him under the provisions of the Civil Procedure Law, Cap. 7.

12. At the time appointed for the sale the doors of any room in which the sale takes place may, in the discretion of the auctioneer, be closed so that any person present at the commencement of the sale may not leave the room until the person concluding the sale shall have closed the sale and called upon the highest bidder to pay the sum payable under rule 11. [*113]

13. On the conclusion of the sale, the auctioneer shall inscribe on a copy of the printed notices of sale the name and place of residence of the highest bidder, together with a statement of the amount of his bidding and of the sum or sums paid by him, and he shall deposit such sums, together with the documents of the sale, at the Land Registry Office within ten days from the day of the sale.

14. The Principal Land Registry Officer in any District is empowered to give any special directions as to the manner and conditions of sale of any property where in his opinion it shall be advisable so to do ; provided that he shall not, in the exercise of such power, direct any sale to be carried out in a manner inconsistent with the Civil Procedure Law, Cap. 7, or any law amending the same.

15. The fees stated in this rule (which shall be deemed to be expenses of the sale) are appointed to be taken by the auctioneer in respect of the matters hereinafter specified, that is to say-

(1) auction fee on the highest amount bid in respect of each lot of immovable property sold, where such amount-

| | £ | s. | p. |
|---|---------------------------------------|----|----|
| does not exceed £20 | - | 5 | 0 |
| exceeds £20 and does not exceed £50 | - | 10 | 0 |
| exceeds £50 and does not exceed £100 | - | 15 | 0 |
| exceeds £100 and does not exceed £300 | 1 | 10 | 0 |
| exceeds £300 and does not exceed £1,000 | One percent on the highest amount bid | | |
| exceeds £1,000 | 10 | 0 | 0 |

Provided that, subject to the provisions of paragraph (2) of this rule, in no case shall the auctioneer receive in respect of any lot sold a fee in excess of half the highest amount bid therefore;

(2) auctioneer's compensation-

(a) where the fees in respect of all lots sold at any auction amount to less than 5s., a sum which together with such fees shall add up to the sum of 5s.;

(b) where the auction takes place but no property is sold or where the sale is cancelled without notice of the cancellation by the Land Registry Office being served on the auctioneer personally or by registered post at least two clear days before the date fixed for such sale 5s

(3) auctioneer's remuneration for travelling (including remuneration for any loss of time spent in travelling), where he resides elsewhere than in the town or village in which the sale is appointed to take place, at the rate of one shilling per mile travelled; [*114]

Provided that where the sale is cancelled but the auctioneer, not having received notice of the cancellation as in paragraph (2) of this rule provided, travels or incurs expenses for travelling, he shall be entitled to such remuneration, not exceeding the aforesaid rate, as the Principal Land Registry Officer of the District may determine having regard to the circumstances of the case and to any such actual expenses incurred.

APPENDIX A.

[RULE 3 (a).]

Notice is hereby given that under an Order of the District court of dated the day of , 19 , the interest of of in the under-mentioned properties as registered in his name in the books of the Land Registry Office, will be sold by Public Auction in lots by of at at o'clock on the day of 19. Bidding in writing may be made pending sale to the above named Auctioneer.

| Lot | Registration No. | Plan and Plot No. | Village | Locality | Particulars of Property | | |
|-----|------------------|-------------------|---------|----------|-------------------------|--------|-----|
| | | | | | Nature | Extent | |
| | | | | | | Don. | Ev. |
| | | | | | | | |

| Boundaries | Registered interest offered for sale | Assessed Value | Remarks |
|------------|--------------------------------------|----------------|---------|
| | | | |

The above interest in the properties stated is offered for sale without further warranty as to the existence, nature or extent of the property or of the title of the Judgment Debtor. Unless otherwise specified the sale will be subject to the Rules of Sale.

APPENDIX B

[Rule 3 (b).]

Notice is hereby given that under an Order of the District court of _____ dated the day of _____, 19____, the interest of _____ of _____ in the under-mentioned properties as registered in his name in the books of the Land Registry Office, will be sold by Public Auction in lots by _____ of _____ at _____ at _____ o'clock _____ on the day of 19____. Biddings in writing may be made pending sale to the above-named Auctioneer.

| Village in which situate | Lands | | Trees | | Buildings, &c. |
|--------------------------|-------------|--------|-------------|------------------------|----------------|
| | No. of lots | Extent | No. of lots | No. and Class of Trees | |
| | | | | | |

Full details of the properties to be sold and of the conditions of sale may be obtained from the Notice of Sale posted at or from the Auctioneer or at the Land Registry Office of the District.

19____.

Principal Land Registry Officer.