

RULE 46 – SALES BY THE COURT

Court may order sale

- (1) Where in a proceeding it appears necessary or expedient that property be sold, the court may order the sale and may order a person in possession of the property or in receipt of the rents, profits or income from it to join in the sale and transfer of the property and deliver up the possession or receipt to the purchaser or person designated by the court.

Sale in debenture holder's proceeding

- (2) In a debenture holder's proceeding where the debenture holder is entitled to a charge on any property, the court, if it is of the opinion that eventually there must be a sale of the property, may order the sale before or after judgment, whether or not all interested persons are ascertained or served.

Conduct of sale

- (3) Where an order is made directing property to be sold, the court may permit any person having the conduct of the sale to sell the property in the manner the person thinks just or as the court directs.

Directions for sale

- (4) The court may give directions it considers just for the purpose of effecting a sale, including directions:
 - (a) appointing the person who is to have conduct of the sale;
 - (b) fixing the manner of sale, whether by contract conditional on the approval of the court, private negotiation, public auction, sheriff's sale, tender or some other manner;
 - (c) fixing a reserve or minimum price;
 - (d) defining the rights of a person to bid, make offers or meet bids;
 - (e) requiring payment of the purchase price into court or to trustees or to other persons;
 - (f) settling the particulars or conditions of sale;
 - (g) obtaining evidence of the value of the property;
 - (h) fixing the remuneration to be paid to the person having conduct of the sale and any commission, costs or the expenses resulting from the sale;

- (i) that any conveyance or other document necessary to complete the sale be executed on behalf of any person by a person designated by the court; and
- (j) authorizing a person to enter upon any land or building.

Application for directions

- (5) A person having conduct of a sale may apply to the court for further directions.

Certificate of sale

- (6) The result of a sale by order of the court shall be certified by the person having the conduct of the sale by completing the Certificate of Result of Sale in Form 51, verified by affidavit, and promptly filed after completion of the sale.

Vesting order

- (7) The person having conduct of the sale may apply to the court for a vesting order in favour of a purchaser.