
All Saints' Balgowlah Mortgage Ordinance 1968

No. 46, 1968

AN ORDINANCE to authorise the mortgaging of certain land at Balgowlah in the Municipality of Manly and to provide for the application of the mortgage money and for purposes incidental thereto.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is registered as proprietor in fee simple of the land comprised in Certificates of Title Volume 5368 Folio 202 and Volume 5415 Folio 193 more particularly described in the Schedule hereto AND WHEREAS by Declaration of Trust dated 15th October, 1943 Ronald Mann, Basil Bennett and Julian Arthur Beaver (therein called "Trustees") declared that they should stand and be seised of an interest in the said land upon trust to hold the said land and premises for the benefit of the members of the Church of England within the Parochial District of Balgowlah and inter alia as a site for or as a church chapel mission room class room, meeting room or lecture room in connection with the Church of England AND WHEREAS the said land is church trust property now held for the sole benefit of the Provisional Parish of All Saints Balgowlah with St. James Balgowlah Heights AND WHEREAS it is proposed to erect a new church on part of the said land and also add a second storey to the existing church hall and a structure linking the one with the other and for such purpose it will be necessary to borrow a sum not exceeding Forty-five thousand dollars (\$45,000) AND WHEREAS in order to secure the sum so borrowed it is expedient that the said land be now mortgaged or charged NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of such Synod HEREBY ORDAINS AND DIRECTS as follows:—

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Schedule is held it is expedient that the same be now mortgaged or charged:—

- (i) The Corporate Trustee is hereby empowered to mortgage or charge the whole or any part of the said land for the purpose of borrowing the sums following:
 - (a) When the power is first exercised a sum not exceeding Forty-five thousand dollars (\$45,000);

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- (b) When the power is subsequently exercised such sum not exceeding Forty-five thousand dollars (\$45,000) as Standing Committee may by resolution determine; PROVIDED that such debt shall when the power is first exercised be repaid as to Twenty thousand dollars (\$20,000) within twelve months from the date of completion of the said new buildings and thereafter at the rate of Four thousand dollars (\$4,000) per annum principal and interest and when the power is subsequently exercised at such rate as Standing Committee may by resolution determine. PROVIDED further that no person or corporation advancing moneys under this Ordinance shall be concerned to enquire whether such reduction shall have been made;
- (ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the power;
- (iii) A document purporting to be certified by the Archbishop or the Diocesan Secretary as a copy of any such resolution shall in favour of a mortgagee or any person or corporation claiming under the mortgage be conclusive evidence that such resolution was duly passed.
2. The proceeds of any mortgage or charge hereby authorised shall be applied as follows:—
- (i) When the power is first exercised in payment of the costs of and incidental to this Ordinance and any mortgage or charge executed in pursuance thereof and the balance shall be paid to the Churchwardens for the time being of All Saints' Church Balgowlah and applied by them towards the erection of a new church on the said land, an extra storey on the church hall and a structure to link both buildings;
- (ii) When the power is subsequently exercised in payment of the principal interest and costs of and incidental to the discharge of any then existing mortgage and the costs and expenses of such further mortgage;
- (iii) Any mortgagee advancing moneys pursuant to sub-clause (i) of this clause is hereby authorised to pay the same direct to the Churchwardens for the time being of the said Church.

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3. The Churchwardens for the time being of All Saints' Church Balgowlah shall within seven days of the holding of the Annual Vestry Meeting of such Church during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed, the amounts paid off and the balance owing.

4. This Ordinance may be cited as "All Saints' Balgowlah Mortgage Ordinance, 1968".

SCHEDULE

All that piece or parcel of land situated at Balgowlah in the Municipality of Manly Parish of Manly Cove County of Cumberland having a frontage of about 84' to Sydney Road with a curved corner to Boyle Street and depth along that street of about 153' 6" being Lots A and B in plan annexed to Transfer No. D.175964 and the whole of the land comprised in Certificates of Title Volume 5386 Folio 202 and Volume 5415 Folio 193 respectively.

I certify that the Ordinance as printed is in accordance with the Ordinance as reported.

ATHOL RICHARDSON,
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 16th day of December, 1968.

W. L. J. HUTCHISON,
Secretary.

I assent to this Ordinance.

MARCUS LORE,
Archbishop of Sydney.

16/12/1968.