

satisfy the Judge, that he has a proper case and is entitled to some relief; in other words, he has to make out a prima facie case. On this application, the applicant is required to produce and file the material used on his application to the mortgagee or vendor, as the case may be, together with a full statement of his case on a form which will be available for his use, and such other evidence as the Judge requires.

Third Step Provided For.

"If a prima facie case has not been made out, which would justify relief and a hearing, the Judge can dismiss the application and the mortgagee may proceed. If, however, a case has been made out, before the Judge, then the third step is provided for.

"The Judge, in all such cases, shall grant a hearing, and all parties interested, including second mortgagees, and all subsequent encumbrances, will be brought before him. At this hearing, the Judge considers the position of all parties, reviews all the facts and circumstances of each case, and if he is of opinion on the evidence before him, that such applicant is entitled to relief, the Judge by the act is given power to make an order.

"It is thought advisable to set out in the act just what order the Judge may make. This is provided for and the order that may be made is as follows:

"1. That the applicant be relieved from making any payments of interest, insurance, etc., for a period not exceeding six months—(it may be for one, two, three, four or five months, depending on the facts and circumstances in each case, but cannot exceed six months).

"2. That after such period of one, two, three, four, five or six months, as the case may be, the applicant shall, if he wishes to retain the premises, pay to such person as the Judge directs, monthly payments in advance, based upon at least 75 per cent. of the aggregate amount of interest, taxes and insurance due in any year.

"(3) That the applicant shall not sell or dispose of any of his goods or chattels without the consent of the mortgagee or Judge;

"(4) That failure to comply with the terms of the order, the mortgagee may proceed if he wishes;

"(5) That any action or proceeding commenced shall be stayed, and if no action has been taken, none shall be taken.

Order for Payments.

"The Judge may also, where he finds from the facts before him that the applicant is able to make monthly payments within the six months' period, order that the same be paid. This gives the mortgagor, in proper cases, reasonable relief, and also provides for payments by way of rent to the mortgagee.

"The act further provides that the proceedings shall be free of costs, and all hearings shall be in camera. There are also general provisions giving power to the Judge upon application made on notice to all parties, to review, and vary any order made. Provision is also made that the Sheriff shall not continue any proceeding taken on an execution against the lands of any mortgagor or purchaser, without the leave of the Judge. Provision is also made that the provisions of the act apply to actions or proceedings taken after the First day of January, 1933.

"In considering and framing this legislation, both mortgagor and mortgagee have been considered, and it is thought that it will work out in practice to the mutual benefit of both. In many cases the mortgagee does not want the property, but is willing to carry along, provided something comes in to meet taxes and interest."