

CHAPTER 65

QUIETING TITLE

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65.011 Real estate; certain jurisdiction over.—

Chancery courts have jurisdiction of actions by any person or corporation claiming to own any land or part thereof, or by two or more claiming to own the same land or part thereof under a common title against more than one person or corporation occupying or claiming title to the land or part thereof adversely to plaintiff, whether defendants claim or hold under a common title or not; and shall determine the title of plaintiff as against defendants and enter judgment quieting the title of, and awarding possession to, the plaintiff entitled thereto and may enter injunctions, temporary or perpetual, appoint receivers, and enter such orders about costs as are necessary to protect the rights of the parties.

History.—s. 1, ch. 3884, 1889; RS 1500; GS 1949; RGS 3212; CGL 5004; s. 20, ch. 67-254.

Note.—Former s. 66.10.

65.021 Real estate; removing clouds.—

Chancery courts have jurisdiction of actions brought by any person or corporation, whether in actual possession or not, claiming legal or equitable title to land against any person or corporation not in actual possession, who has, appears to have or claims an adverse legal or equitable estate, interest, or claim therein to determine such estate, interest, or claim and quiet or remove clouds from the title to the land. It is no bar to relief that the title has not been litigated at law or that there is only one litigant to each side of the controversy or that the adverse claim, estate, or interest is void upon its face, or though not void on its face, requires extrinsic evidence to establish its validity.

History.—s. 1, ch. 4739, 1899; GS 1950; RGS 3213; s. 1, ch. 10223, 1925; CGL 5005; s. 2, ch. 29737, 1955; s. 20, ch. 67-254.

Note.—Former s. 66.11.

65.031 Real estate; removing clouds; plaintiffs.—

An action in chancery for quieting title to, or clearing a cloud from, land may be maintained in the name of the owner or of any prior owner who warranted the title. All lands, the title to which is subject to a common defect, may be embraced in one action irrespective of the number of existing legal or equitable owners.

History.—s. 1, ch. 10221, 1925; CGL 5006; s. 20, ch. 67-254.

Note.—Former s. 66.12.

65.041 Real estate; removing clouds; defendants.—

No person not a party to the action is bound by any judgment rendered adverse to his or her interest, but any judgment favorable to the person inures to that person's benefit to the extent of his or her legal or equitable title.

History.—s. 2, ch. 10221, 1925; CGL 5007; s. 20, ch. 67-254; s. 345, ch. 95-147.

Note.—Former s. 66.13.

65.051 Real estate; removing clouds; joinder.—

Two or more persons who are interested in removing a cloud from or quieting title to land as against the same clouds or adverse claims may join as plaintiffs in a single action to remove such clouds or quiet the title, although their interests relate to separate lands or parts thereof.

History.—s. 1, ch. 10222, 1925; CGL 5008; s. 2, ch. 29737, 1955; s. 20, ch. 67-254.

Note.—Former s. 66.14.

65.061 Quieting title; additional remedy.—

(1) JURISDICTION.—Chancery courts have jurisdiction of actions by any person or corporation claiming legal or equitable title to any land, or part thereof, or when any two or more persons claim to own the same land, or any part thereof under a common title against all persons or corporations claiming title to or occupying the land adversely to plaintiff, whether defendants claim or hold under a common title or not, and shall determine the title of plaintiff and may enter judgment quieting the title and awarding possession to the party entitled thereto, but if any defendant is in actual possession of any part of the land, a trial by jury may be demanded by any party, whereupon the court shall order an issue in ejectment as to such lands to be made and tried by a jury. Provision for trial by jury does not affect the action on any lands that are not claimed to be in the actual possession of any defendant. The court may enter final judgment without awaiting the determination of the ejectment action.

(2) GROUNDS.—When a person or corporation not the rightful owner of land has any conveyance or other evidence of title thereto, or asserts any claim, or pretends to have any right or title thereto, which may cast a cloud on the title of the real owner, or when any person or corporation is the true and equitable owner of land the record title to which is not in the person or corporation because of the defective execution of any deed or mortgage because of the omission of a seal thereon, the lack of witnesses, or any defect or omission in the wording of the acknowledgment of a party or parties thereto, when the person or corporation claims title thereto by the defective instrument and the defective instrument was apparently made and delivered by the grantor to convey or mortgage the real estate and was recorded in the county where the land lies, or when possession of the land has been held by any person or corporation adverse to the record owner thereof or his or her heirs and assigns until such adverse possession has ripened into a good title under the statutes of this state, such person or corporation may file complaint in any county in which any part of the land is situated to have the conveyance or other evidence of claim or title canceled and the cloud removed from the title and to have his or her title quieted, whether such real owner is in possession or not or is threatened to be disturbed in his or her possession or not, and whether defendant is a resident of this state or not, and whether the title has been litigated at law or not, and whether the adverse claim or title or interest is void on its face or not, or if not void on its face that it may require extrinsic evidence to establish its

validity. A guardian ad litem shall not be appointed unless it shall affirmatively appear that the interest of minors, persons of unsound mind, or convicts are involved.

(3) **DERAIGNMENT OF TITLE.**—The plaintiff shall deraign his or her title from the original source or for a period of at least 7 years before filing the complaint unless the court otherwise directs, setting forth the book and page of the records where any instrument affecting the title is recorded, if it is recorded, unless plaintiff claims from a common source with defendant.

(4) **JUDGMENT.**—If it appears that plaintiff has legal title to the land or is the equitable owner thereof based on one or more of the grounds mentioned in subsection (2), or if a default is entered against defendant (in which case no evidence need be taken), the court shall enter judgment removing the alleged cloud from the title to the land and forever quieting the title in plaintiff and those claiming under him or her since the commencement of the action and adjudging plaintiff to have a good fee simple title to said land or the interest thereby cleared of cloud.

(5) **RECORDING FINAL JUDGMENTS.**—All final judgments may be recorded in the county or counties in which the land is situated and operate to vest title in like manner as though a conveyance were executed by a special master or commissioner.

(6) **OPERATION.**—This section is cumulative to other existing remedies.

History.—ss. 1, 2, 5, 6, 8, 9, ch. 11383, 1925; CGL 5010, 5011, 5014, 5015, 5017, 5018; s. 1, ch. 24293, 1947; s. 2, ch. 29737, 1955; s. 20, ch. 67-254; s. 1, ch. 70-278; s. 346, ch. 95-147.

Note.—Former ss. 66.16, 66.17, 66.20, 66.21, 66.23, 66.24.

165.071 Quieting title; deeds without joinder of wife when separated for 30 years.—An action in chancery may be brought to quiet title to land to preclude any wife from claiming dower or any heirs from claiming any interest to land when the following facts exist:

(1) When any husband and wife have not cohabited as husband and wife for 30 years or more and during this time the husband has conveyed land as a single man and the land has come into the hands of purchasers for a valuable consideration without notice that the husband was married at the time he conveyed the land, and the purchasers have relied on the acknowledgment to deeds by the husband that he was a single man, and it afterwards became known that he was a married man at the time he deeded the land and his marriage has never been dissolved and he refuses to voluntarily get a dissolution of marriage to clear the title to preclude his wife from claiming any inchoate dower therein and his heirs from claiming any interest therein and when the wife has never lived in the county where the land is located with the husband as his wife and has never asserted any inchoate right to dower in the land, the inchoate right to dower is divested and is a cloud on the title to the land and the purchaser of the land has the right to remove the cloud and to prevent the wife or heirs from claiming any dower or other interest from such purchasers and their successors in title.

(2) When these facts are proven, the court shall adjudge that the wife and heirs of the husband are for-

ever barred and perpetually enjoined from claiming any interest in the land arising out of dower or otherwise, and that the wife did not join in the execution of the deeds by which the husband deeded the land as a single man under the facts above-stated is not effective to reserve an inchoate right of dower in the land held by such purchasers.

History.—ss. 1, 2, ch. 19116, 1939; CGL 5011(1), (2); s. 2, ch. 29737, 1955; s. 20, ch. 67-254; s. 1, ch. 73-300.

Note.—Chapter 73-107 abolished the right of dower in property transferred prior to death. See also s. 732.111.

Note.—Former s. 66.25.

65.081 Tax titles; quieting title.—

(1) **PARTIES.**—Any grantee under any tax deed issued by the state, or any municipality or other political subdivision thereof, or any purchaser from the state, or any municipality or other political subdivision thereof, of any land the title to which has been acquired by this state or such municipality or political subdivision through any proceeding or foreclosure for the nonpayment of taxes or special assessments, or the successor in title to the grantee or purchaser, may maintain an action in chancery to quiet title to the land included in the tax deed, or so purchased against the holder of the record title to the land, and against any other person or corporation claiming any interest in the land or any lien or encumbrance thereon, before issuance of the tax deed or before the loss of title to the land in the tax proceeding or foreclosure.

(2) **DERAIGNING TITLE.**—Actions may be maintained hereunder whether or not plaintiff is in possession of the land involved but when defendant is in actual possession of the land a jury trial may be had as provided in other actions to quiet title. When the action is based on a tax deed, the complaint need not deraign title beyond the issuance of the tax deed. When the action is based on a conveyance by this state, or any municipality or other political subdivision thereof, of land the title to which it has acquired through a foreclosure or other proceeding for the nonpayment of taxes, the complaint need not deraign title beyond the deed or other instrument or act vesting title in the state or municipality or other political subdivision of the state.

(3) **WHEN TAXES HAVE BEEN PAID.**—No defense to the action or attack upon the tax deed shall be made except the defense that the taxes assessed against the property had been paid by the former owner before issuance of the tax deed.

(4) **WHEN TAX DEED HAS BEEN ISSUED BEFORE CONVEYANCE BY SOVEREIGN.**—No defense shall be made to the action because of assessment of the property or issuance of the tax deed before the United States or the state has parted with title to the property, and no other attack shall be made on it, except the defense that the taxes assessed against the property had been paid by the person, or a claimant under him or her, to whom the United States patent or conveyance from the state was issued before the issuance of the tax deed.

History.—ss. 1, 2, ch. 21822, 1943; s. 2, ch. 29737, 1955; s. 20, ch. 67-254; s. 29, ch. 74-382; s. 1, ch. 77-174; s. 347, ch. 95-147.

Note.—Former ss. 66.26, 66.27.

CHAPTER 66

EJECTMENT

- 66.011 Common-law ejectment abolished.
- 66.021 Procedure.
- 66.031 Verdict and judgment.
- 66.041 Betterment, petition.
- 66.051 Betterment, answer.
- 66.061 Betterment, trial and verdict.
- 66.071 Betterment, judgment for plaintiff.
- 66.081 Betterment, judgment for defendant.
- 66.091 Betterment, payment by plaintiff.
- 66.101 Betterment, payment by defendant.

66.011 Common-law ejectment abolished.—In ejectment it is not necessary to have any fictitious parties. Plaintiff may bring action directly against the party in possession or claiming adversely.

History.—s. 1, ch. 999, 1859; RS 1511; GS 1966; RGS 3234; CGL 5040; s. 21, ch. 67-254.

Note.—Former s. 70.01.

66.021 Procedure.—

(1) **LANDLORD NOT A DEFENDANT.**—When it appears before trial that a defendant in ejectment is in possession as a tenant and that his or her landlord is not a party, the landlord shall be made a party before further proceeding unless otherwise ordered by the court.

(2) **DEFENSE MAY BE LIMITED.**—A defendant in an action of ejectment may limit his or her defense to a part of the property mentioned in the complaint, describing such part with reasonable certainty.

(3) **WRIT OF POSSESSION; EXECUTION TO BE JOINT OR SEVERAL.**—When plaintiff recovers in ejectment, he or she may have one writ for possession, damages and costs or, if the plaintiff elects, have separate writs for possession and damages.

(4) **CHAIN OF TITLE.**—Plaintiff with his or her complaint and defendant with his or her answer shall serve a statement setting forth chronologically the chain of title on which he or she will rely at trial. If any part of the chain of title is recorded, the statement shall set forth the names of the grantors and the grantees and the book and page of the record thereof; if an unrecorded instrument is relied on, a copy shall be attached. The court may require the original to be submitted to the opposite party for inspection. If the party relies on a claim or right without color of title, the statement shall specify how and when the claim originated and the facts on which the claim is based. If defendant and plaintiff claim under a common source, the statement need not derain title before the common source.

(5) **TESTING SUFFICIENCY.**—If either party wants to test the legal sufficiency of any instrument or court proceeding in the chain of title of the opposite party, the party shall do so before trial by motion setting up his or her objections with a copy of the instrument or court proceedings attached. The motion shall be disposed of before trial. If either party determines that he or she will be unable to maintain his or her claim by reason of the order, that party may so state in the record and final judgment shall be entered for the opposite party.

History.—s. 21, ch. 67-254; s. 348, ch. 95-147.

66.031 Verdict and judgment.—

(1) **VERDICT.**—A verdict for plaintiff shall state the quantity of the estate of plaintiff, and describe the land by metes and bounds, lot number or other certain description.

(2) **JUDGMENT.**—The judgment awarding possession shall state the quantity of the estate and give a description of the land recovered in like manner.

History.—ss. 1, 2, ch. 3244, 1881; RS 1515; GS 1970; RGS 3238; CGL 5046; s. 21, ch. 67-254.

Note.—Former s. 70.05.

66.041 Betterment, petition.—If a judgment of eviction is rendered against defendant, within 60 days thereafter, or if he or she has appealed, within 20 days after filing the mandate affirming the judgment, defendant may file in the court in which the judgment was rendered a petition setting forth that:

(1) Defendant had been in possession and that he or she or those under whom defendant validly derived had permanently improved the value of the property in controversy before commencement of the action in which judgment was rendered;

(2) Defendant or those under whom defendant validly derives held the property at the time of such improvement under an apparently good legal or equitable title derived from the English, Spanish, or United States Governments or this state; or under a legal or equitable title plain and connected on the records of a public office or public offices; or under purchase at a regular sale made by an executor, administrator, guardian or other person by order of court; and

(3) When defendant made the improvements or purchased the property improved, he or she believed the title which he or she held or purchased to the land thus improved to be a good and valid title. The petition shall demand that the value of the improvements be assessed and compensation awarded to defendant therefor.

History.—RS 1516; GS 1971; RGS 3239; CGL 5047; s. 2, ch. 29737, 1955; s. 21, ch. 67-254; s. 349, ch. 95-147.

Note.—Former s. 70.06.

66.051 Betterment, answer.—The plaintiff in the judgment of eviction may file written defenses to the petition within 20 days after service of the petition.

History.—RS 1517; GS 1972; RGS 3240; CGL 5048; s. 14, ch. 29737, 1955; s. 21, ch. 67-254.

Note.—Former s. 70.07.

66.061 Betterment, trial and verdict.—If an answer is filed, trial shall be on the issues made. If no answer is filed, trial shall be ex parte, but defendant is required to prove every allegation of the petition. If the jury (or if a jury is waived, the court) finds in favor of defendant, it shall assess:

(1) The value of the land at the time of the assessment, irrespective of the improvements put upon the land by defendant or those under whom he or she derives, and if any, the injury done to the land by defendant or those under whom he or she derives.

(2) The value of the permanent improvements at the time of the assessment.

(3) The injury, if any, done to the land by defendant or those under whom he or she derives.

(4) The value of the use of the land by defendant between the time of the judgment in ejectment and the time of the assessment or if defendant has been evicted from or has surrendered the premises, from the time of the judgment to the time of the surrender or eviction. The findings shall be specified separately on each of these matters.

History.—RS 1518; GS 1973; RGS 3241; CGL 5049; s. 2, ch. 29737, 1955; s. 21, ch. 67-254; s. 350, ch. 95-147.

Note.—Former s. 70.08.

66.071 Betterment, judgment for plaintiff.—On rendition of the verdict the clerk shall ascertain whether the balance of the last three assessments (that is, of the value of the improvements, the extent of the injury and the value of the use of land), is in favor of plaintiff or defendant and ascertain the amount of the balance; if the verdict is in favor of plaintiff, judgment shall be rendered against defendant for costs, whether the balance of the assessments is in favor of plaintiff or defendant; but if the balance of the assessments is in favor of plaintiff, he or she shall have a judgment for costs in addition to the judgment for the balance.

History.—RS 1519; GS 1974; RGS 3242; CGL 5050; s. 21, ch. 67-254; s. 351, ch. 95-147.

Note.—Former s. 70.09.

66.081 Betterment, judgment for defendant.—If the verdict is in favor of defendant and the balance of assessments is also in defendant's favor, a judgment for costs shall be entered against plaintiff, and a further judgment that unless plaintiff pays or secures as hereinafter provided the amount of the balance of assessments against him or her within 20 days, defendant may pay or secure to plaintiff the value of the land as assessed.

History.—RS 1520; GS 1975; RGS 3243; CGL 5051; s. 21, ch. 67-254; s. 352, ch. 95-147.

Note.—Former s. 70.10.

66.091 Betterment, payment by plaintiff.—The plaintiff may pay the balance in cash or may give defendant a bond with surety to be approved by the clerk, conditioned to pay said balance in two equal annual installments, with interest at 6 percent per annum to defendant. If plaintiff shall pay the sum within 20 days, or if the payment of the bond is received, satisfaction of the judgment shall be entered and all rights conferred on defendant by the judgment terminate.

History.—RS 1521; GS 1976; RGS 3244; CGL 5052; s. 21, ch. 67-254.

Note.—Former s. 70.11.

66.101 Betterment, payment by defendant.—If plaintiff does not pay or secure the sum within 20 days, within 20 days thereafter defendant may pay to plaintiff the value of the land as assessed or give plaintiff a bond with surety, to be approved by the clerk, conditioned to pay plaintiff the value in two equal annual installments, with 6 percent interest; or if plaintiff fails to pay the bond given by him or her when it becomes due, for 20 days after the expiration of the time fixed in the bond for payment, defendant shall again have the privilege of paying to plaintiff in cash the value of the land assessed. On the payment of the sum to plaintiff at any of the times hereinbefore mentioned, title to the land shall vest in defendant and plaintiff or those holding under him or her shall give defendant a deed to the land, tenements, hereditaments, and appurtenances, and if defendant has been evicted from or has surrendered the property, it shall be restored to him or her by order of court on motion.

History.—RS 1522; GS 1977; RGS 3245; CGL 5053; s. 21, ch. 67-254; s. 353, ch. 95-147.

Note.—Former s. 70.12.