

OCCUPYING CLAIMANTS.

CHAPTER 15.

AN ACT DEFINING THE RIGHTS OF OCCUPANCY
OF CLAIMANTS, PRESCRIBING THE MANNER OF
ENFORCING THE SAME, AND QUIETING THE
TITLE TO LANDS SO OCCUPIED.*Be it enacted by the Legislative Assembly of the Territory
of Dakota:*

When occupant
of land has made
valuable im-
provement under
color of title. In
action found not
to be the proper
owner

Section 1. That where any occupant of land has color of title thereto, and in good faith has made any valuable improvements thereon, and is afterwards in the proper action found not to be the rightful owner thereof, he may bring an action against the persons so found to be rightful owner, and therein shall be determined his right as such occupying claimant, in accordance with the provisions of this act; and if such action shall be commenced within twenty days from the rendition of the judgment in the original action, no execution or other process shall issue to put the plaintiff in possession of such property until the provisions of this act have been fully complied with.

What complaint
must state

Sec. 2. The complaint in such action must set forth the grounds on which the complainant therein named seeks relief; stating among other things the value of the land so occupied, aside from the improvements thereon, and also as accurately as practicable, the improvements upon the land and the value thereof.

Issue may be
joined

Sec. 3. Issue may be joined in such proceedings as in other civil cases, and upon the trial of such issue or issues, the value of the land aside from the value of the improvements thereon, and the separate value of the improvements must be specifically found by the verdict of a jury or by the court upon evidence adduced in court.

Sec. 4. The judgment upon such finding, if in favor of such occupying claimant, shall be that such occupying claimant, pay to the holder of the legal title of such lands, the appraised value thereof within sixty days from the rendition of such judgment, and in default of such payment by such occupying claimant, that the holder of such legal title shall pay to such occupying claimant the full amount of the appraised value of the improvements situated upon such land, and that until such payment or tender, and deposit in the proper clerk's office, no execution or other process shall issue in the original action to dispossess such occupying claimant.

Judgment if in favor of occupying claimant. Default thereof

Sec. 5. The rules of practice now or that may be hereafter in force in this Territory, shall govern in actions brought under the provisions of this act, when the same are not inconsistent therewith.

Rules of practice in such case

Sec. 6 The purchaser in good faith at any judicial or tax sale made by the proper person or officer, has color of title within the meaning of this act, whether such person or officer had sufficient authority to sell or not; and the rights of such purchaser shall pass to his assignees or descend to his heirs; *Provided, however,* That nothing in this section contained shall be construed to limit what shall constitute color of title.

The purchaser in good faith at any judicial tax sale—has color of title. Provided

Sec. 7. In the cases above provided for, if the occupying claimant has committed any injury or waste upon such land, the defendant in the proceedings herein prescribed, may set off the amount of the same against any claim for improvements made by such claimants.

If claimant has committed any injury

Sec. 8. Any occupying claimant in possession may at any time file complaint, setting forth his claims to such estate whether of inheritance for life, for years, or under any act of congress, and averring that he is credibly informed and believes that the defendant makes some claim adverse to the estate of the complainant, and praying that such defendant may be summoned to show cause why he should not bring an action, to try the alleged title if any, and thereupon the court or the judge thereof in vacation, shall order notice to be given to the defendant by summons issued; and upon the return of such summons duly served, if the defendant so notified shall make default, or having appeared shall disobey the lawful order of

May at any time file complaint setting forth his claims. Judge shall order notice to be given Final judgment

the court, to bring an action to try the title to such estate within such time as the court shall direct, the court shall enter a final judgment that such defendant be forever debarred and estopped from having or claiming any right or title to such estate adverse to such plaintiff and those claiming by, through or under him.

If defendant
shall appear and
disclaim all right

Sec. 9. If the defendant in the proceedings provided for in section eight thereof, shall appear and disclaim all right and title adverse to the plaintiff he shall recover his costs; if he shall claim title, he shall show cause by answer why he should not be required to bring an action and try such title, and the court shall make such judgment or order respecting the bringing and prosecuting of such action as may seem just.

Act to take effect
—when

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved, Jan. 4, 1869.

PARTITION OF LANDS.

CHAPTER 16.

AN ACT TO PROVIDE FOR THE PARTITION OF LANDS.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

When object of
action is to effect
partition of lands

Section 1. That when the object of an action is to effect the partition of real property among several joint owners the complaint must describe the property, and the respective interests of the several owners thereof, if known.