

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



Edited by
WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR., Assistant Editor

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The Torrens Law intends that all titles registered thereunder shall be free from all unregistered rights or claims except those specifically named, and unregistered deeds or contracts do not affect such titles nor create any interest in the land. 178M55, 226NW201.

The act abrogates the doctrine of constructive notice, but as to matters noted on the certificate of title, but not the effect to be given to actual notice of unregistered conveyances. 178M55, 226 NW201.

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Attachments and judgments properly registered take precedence over unregistered conveyances of which the creditor had no actual notice. 178M55, 226NW201.

Possession of real estate is prima facie evidence of title and is notice of whatever rights the possessor has which would be disclosed upon reasonable inquiry. *Farmers' State Bk. of Eyota v. C.*, 234NW320. See Dun. Dig. 7232.

9. Good faith—Notice.

One taking deed with knowledge of dispute as to ownership was not an innocent purchaser. 181M458, 233NW20. See Dun. Dig. 10073.

It was competent as characterizing the father's possession and plaintiff's good faith to receive in evidence a writing made by the father transferring contract to secure a debt at a time subsequent to the date of the contract held by the sons. *Farmers' State Bk. of Eyota v. C.*, 234NW320. See Dun. Dig. 7232.

12. Judgments and attachments.

A garnishment is not an attachment within the meaning of §8226, which has reference to real estate only. 176M18, 222NW509.

18. Fraud on holder of unrecorded deed.

The holder of a prior unrecorded mortgage held not liable in damages for loss to a subsequent execution purchaser resulting from an assignment of the mortgage to a bona fide purchaser. 172M444, 216NW243.

§8226-1. Certain instruments must be recorded.—Whenever any instrument, otherwise legal, affecting the title to real estate situate in this state, granting any interest therein to or evidencing any lien thereon in favor of any person, as trustee, shall be recorded in the office of the register of deeds, or filed in the office of the registrar of titles, of the county in which such real estate is situate, and the powers of such trustee and the beneficiary of such trust are not set forth

in said instrument, expressly, or by reference to an instrument so recorded or filed, such designation of such grantee, as trustee, may be disregarded, and shall not be deemed to give notice to any person whatsoever, of the rights of any beneficiary under such trust in said real estate unless and until an instrument defining, or conferring such powers of such trustee and designating the beneficiary thereunder, with a certificate attached executed by the trustee in the same manner as deeds are required to be executed by the laws of this state describing such instrument so granting an interest or evidencing a lien and stating that the same is held subject to the provisions of such trust, shall be so recorded or filed after such recording or filing of such instrument granting said interest in or evidencing such lien on said real estate. (Act Apr. 24, 1929, c. 318, §1.)

DECISIONS RELATING TO REAL ESTATE BROKERS

Compensation.

Verdict for broker on issue of fraud in obtaining signature to commission contract for sale of land sustained. *Stead v. E.*, 234NW678. See Dun. Dig. 3839.

Although plaintiff did not have the exclusive right to sell the farm, his exclusive agency contract made defendant liable to pay commission to plaintiff, if a sale was made by defendant or any other person. *Stead v. E.*, 234NW678. See Dun. Dig. 1141.

—Procuring cause of contract.

A real estate broker, having no exclusive agency to sell or find a purchaser for real property, in order to be entitled to a commission, must show that he was the procuring or efficient cause of a sale for which he claims commission. *Dorgeloh v. M.*, 236NW325. See Dun. Dig. 1149(68).

Evidence held to sustain finding that defendant agreed to compensate plaintiff for procuring a sale of real estate and that plaintiff did so procure it. *Johnson v. M.*, 237NW22. See Dun. Dig. 1161(27).

—Transaction completed by principal.

Where a broker abandoned negotiations for sale of land, he was not entitled to a commission where principal afterwards sold to his prospect. *Dorgeloh v. M.*, 236NW325. See Dun. Dig. 1149(68).

CHAPTER 64

Plats

§8236. Platting of land—Donations.

After revocation and abandonment, a conveyance by the plattee of blocks or lots abutting the street conveyed the land to the center thereof. *Doyle v. B.*, 235NW18. See Dun. Dig. 1059, 2653.

§8237. Survey and plat—Monument—Rivers, etc.

The finding that the plat of a town site, which contained no designation of a monument from which future surveys could be made, conformed to the statute, is not sustained. *Doyle v. B.*, 236NW18. See Dun. Dig. 2634(82).

§8238. Dedication — Certification — Approval—Etc.

Even though the plat did not conform to c. 29, Gen. Stat. 1866, it effected a common-law dedication to the public of the streets and alleys thereon designated. *Doyle v. B.*, 235NW18. See Dun. Dig. 2646(16), 2652(33).

§8239-4. Plats corrected and legalized.—

That in all cases where the plats or what purport to be plats of any towns or cities in this state of additions to or subdivisions thereof, and plats or parcels of land situated outside of any incorporated city, town or village, or copies thereof, fail to identify or show correctly, upon their face, the tract of land covered or intended to be covered thereby and the said property so platted was owned by and platted by a municipality, the surveyors, or one of them, who laid out or surveyed the same, may make or execute such certificate or the governing body of said municipality may, by resolution, authorize the Mayor and the City Clerk, together with the engineer or surveyor of said municipality, if there be one, within one year from the passage of this act to make and file in the

office of the register of deeds of the county in which said lands are situated, a certificate duly executed and acknowledged by him or them, as deeds are to be executed or acknowledged, wherein shall be set forth a full description of the lands actually covered and intended to be covered by said plat.

And such certificates, so executed, acknowledged and verified, shall be recorded at length by said register of deeds in a book by him provided for the purpose, entitled "Book of Plat Certificates," and said register of deeds shall, thereupon, note upon such plat and the copy thereof filed in his office as aforesaid, such certificate and affidavit, the fact of filing such certificate, and the book and page where recorded; and he shall receive from the person offering said certificate for record, the fee provided by law for similar services. And such certificates, or the record thereof, shall, together with such plat, be prima facie evidence in all cases as to lands covered by said plat. (Act Apr. 26, 1929, c. 395.)

§8239-5. Certain plats may be corrected.—

That in all cases where the plats, or what purport to be plats, of any portion of the lands contained within any town, village or city of this state of additions or subdivisions thereof, which have been executed and filed in an office of any register of deeds previous to January 1st, 1915, fail to identify or correctly describe the land to be so platted or to show correctly upon their face the tract of land intended or purported to be platted thereby, or any such plats are defective by reason of the plat and the description of the land purported to be platted thereby being inconsistent or incorrect, or there exists a defect in the execution of said plats on the part of the grantors thereof, the governing board or council of the municipality containing land so platted or purported to be so platted may authorize, within six months from the passage of this act, referring by the record book and page of such plat or plats in the office of the register of deeds to the plat or plats to be correct, the making of one or more plats which shall correctly show on the face thereof and by description the land intended to be platted, which plat or plats may vary from the original plats in description as to lots and blocks to suit the best purpose and secure the best results, and such plat or plats, in a declaration thereon, shall recite such resolution and shall identify each separate tract of land described therein with such tract of land in the purported plat or plats intended to be corrected thereby, and shall be certified by the proper officers of the municipality as to authorization and by an engineer or surveyor as to correctness, and the signatures of such persons shall be acknowledged in like manner as a deed.

Such plat or plats when so certified and acknowledged may be filed in the office of the register of deeds and the declaration thereon may be recorded at length in a "Book of Plat Certificates"; and when so filed and recorded such plat or plats and declaration together with the record thereof be prima facie evidence in all matters shown or stated therein as to the lands covered thereby.

This act shall not apply to a city whose charter provides for official supervision of plats by municipal officers, commission or board. (Act Apr. 24, 1931, c. 319.)

§8243-1. County Board to control platting of land.—The Board of County Commissioners of any county containing land adjoining a city of the first class but not included within the corporate limits of any city of the first class shall have power to control and regulate the platting of subdivisions of land and the laying out of streets and other public ways. In counties which do not contain a city of the first class the power herein granted shall not extend to lands more than five miles from the boundary of a city of the first class. (Act Apr. 18, 1929, c. 225, §1.)

§8243-2. Comprehensive Plan.—In order to exercise the power conferred under this act, the Board of County Commissioners shall prepare a comprehensive Major Street Plan of the district involved, which plan shall be designated and adopted as the official Major Street Plan of the areas adjoining the City of Such plan may from time to time be amended, extended or amplified. In the preparation of the Major Street Plan and in the administration of the powers herein conferred, the Board of County Commissioners may avail itself of the assistance of the City Planning Commission of the city of the first class adjoining the areas involved. (Act Apr. 18, 1929, c. 225, §2.)

§8243-3. Board to make regulations.—In exercising the powers herein conferred the Board of County Commissioners shall adopt regulations governing the platting of subdivision of lands within the areas designated. Such regulations may provide for the reasonable co-ordination of location and dimension of streets and boulevards and the location of utilities to be contained therein, the minimum width, depth and area of lots and the distance of the front building line from the streets in residence neighborhoods, the extent of the grading and drainage of streets to be required as a condition precedent to the approval of plats of subdivisions. No grades shall be established or required by such regulations which would cause a material damage to the land within the area sought to be subdivided. (Act Apr. 18, 1929, c. 225, §3.)

§8243-4. To be construed as additional powers.—The powers herein conferred upon the Board of County Commissioners shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof and shall be supplemental to and shall not set aside the jurisdiction over plats of subdivisions now exercised by the governing bodies of villages and municipalities located in areas within the scope of this act, provided that upon the failure of the governing body of such village or municipality and the Board of County Commissioners to concurrently approve and adopt a plat of subdivision within sixty days of the time or presentation to each respective authority the approval of the Board of County Commissioners shall be final. The Board of County

Commissioners may extend the time for concurrent approval with respect to individual plats of subdivisions. (Act Apr. 18, 1929, c. 225, §4.)

§8248-5. Application.—Nothing herein shall amend, repeal or affect Chapter 178, Special Laws of Minnesota, for the year 1889. (Act Apr. 18, 1929, c. 225, §5.)

CHAPTER 65 Registration of Title

REGISTRATION

§8247. Registration.

Adverse possession. 171M410, 214NW271.

§8248. Registered land—Adverse possession.

One obtaining new certificate under Torrens Act after purchase at mechanic's lien foreclosure had good title as against parties in possession who were not made defendants though they were claiming under unrecorded transfer from the record owner and his transferee; and a judgment in an action to which the mechanic's lien claimant or his successor was not made a party and of which the records contained no notice did not affect the title. 174M22, 218NW246.

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§8258. Examiner of titles.

Constitutional. 85M437, 446, 89NW175.

§8262. Form of summons—service.—The summons shall be subscribed by the clerk, and shall be directed to the defendants, and require them to appear and answer the application of the applicant, within twenty days after the service of the summons, exclusive of the day of such service. It shall be served in the manner now provided by law for the service of a summons in civil actions in the district court, except as herein otherwise provided. It shall be served upon the state by delivering a copy thereof to the attorney general, who shall transmit the same to the county attorney of the county in which the land described therein is situated, and thereupon such county attorney shall appear in such proceeding, and represent the state therein. It shall be served upon all persons who are not residents of the state or who cannot be found therein and upon "all other persons or parties unknown claiming any right, title, estate, lien or interest in the real estate described in the application herein" by publishing the same in a newspaper printed and published in the county wherein the application is filed, once each week for three consecutive weeks; provided if the order for summons or a supplemental order of the court, filed before, during or after the publication of the summons, shall so direct, the summons may be personally served without the state upon any one or more of the

defendants who are non-residents of the state or who cannot be found therein, in like manner and with like effect as such service in a summons in a civil action in the district court. The clerk shall also at least twenty days before the entry of the decree which shall be entered in said matter, send a copy of the summons by mail to all defendants who are not residents of the state, and whose place of address is known to applicant or stated in the application, or in the order directing the issuance of the summons. The certificate of the clerk that he has mailed the summons, as herein provided, shall be conclusive evidence thereof. Other or further notice of the application for registration may be given in such manner and to such persons as the court or any judge thereof may direct. The summons shall be served at the expense of the applicant and proof of the service shall be made in the same manner as in civil actions. The summons shall be substantially in the following form, namely:

SUMMONS IN APPLICATION FOR REGISTRATION OF LAND

State of Minnesota,
County of..... ss.
District Court, Judicial District.

In the matter of the application of (name of applicant) to register the title to the following described real estate situated in county, Minnesota, namely: (description of land.)

Applicant.

vs.

(names of defendants) and "all other persons or parties unknown claiming any right, title, estate, lien or interest in the real estate described in the application herein."

Defendants.

The State of Minnesota to the Above Named Defendants:

You are hereby summoned and required to answer the application of the applicant in the above entitled proceeding and to file your answer to the said application in the office of the clerk of said court, in said county, within twenty days after service of this summons upon you exclusive of the day of such service, and, if you fail to answer the said application within the time aforesaid, the applicant in this proceeding will apply to the court for the relief demanded therein.

Witness clerk of said court, and the seal thereof, at..... in said county, this..... day of, 19.....

(Seal)

Clerk