

CHAPTER 284

ACTIONS INVOLVING TAX TITLES

284.01 TAX JUDGMENT OR SALE SET ASIDE; PURCHASER'S LIEN; SALE TO SATISFY.

HISTORY. 1887 c. 127 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 11 s. 152; G.S. 1894 s. 5821; Ex. 1902 c. 2 s. 62; R.L. 1905 s. 969; G.S. 1913 s. 2165; G.S. 1923 s. 2185; M.S. 1927 s. 2185.

Section 284.01 which is substantially Ex. Laws 1902, Chapter 2, Section 62, giving to the purchaser of a tax certificate, to which there has been an adjudication of invalidity of the judgment or sale, a lien for the amount of taxes and penalties with interest at 12 per cent per annum does not apply to sales made prior to the passage of the law. Ex. Laws 1902, Chapter 2, Section 62, has a prospective operation only. *Jenks v Henningsen*, 102 M 352, 113 NW 903.

In an action to quiet title where the tax title is found defective because of insufficiency of notice of expiration, it is the duty of the court under section 284.01 to determine the amount and validity of the plaintiff's lien for taxes paid by him. *Foster v Clifford*, 110 M 79, 124 NW 623.

After it has been adjudged in an action to determine adverse claims that the notice of expiration had not been served, the amount which the purchaser from the state is entitled to recover under section 284.04 is the amount paid with interest and subsequent taxes paid by him; and he is not entitled to recover for taxes paid after the trial of the case but before the filing of the findings of the court. *Kimball v Marine National*, 112 M 450, 128 NW 678.

A purchaser of a tax certificate after the tax is declared void is not entitled to the refundment of moneys paid for a state assignment for a subsequent year's taxes, but is entitled to refundment of taxes paid for years subsequent to the tax covered by such state assignments. *State ex rel v County of Chisago*, 115 M 6, 131 NW 792.

This section applies only where in an action a tax judgment or sale is adjudged void by the court. *Byers v Minn. Commercial Loan*, 118 M 266, 136 NW 880; *Downing v Lucy*, 121 M 301, 141 NW 183.

The statute requiring the county auditor to issue notices of expiration of redemption from tax sales "under his hand and official seal" is mandatory, and a failure to affix the seal is fatal to the validity of the notice. *Downing v Lucy*, 121 M 301, 141 NW 183.

A notice of the expiration of the time of redemption in a tax proceeding which is ambiguous and misleading as to the exact amount required to redeem, is nugatory. *Kipp v Love*, 128 M 498, 151 NW 201; *Glaze v Striker*, 135 M 186, 160 NW 490.

Upon adjudging that the tax sale was invalid the court properly held that the purchaser was entitled to a lien for the amount paid at the tax sale and for subsequent taxes and that such lien was enforceable by the sale of the land. *Blakely v Mann*, 153 M 415, 190 NW 797.

An error of the county auditor in the computation of the amount due for taxes should be corrected by application to the court below. *Blakely v Mann*, 153 M 415, 190 NW 797.

The notice of expiration of time of redemption from a tax sale must be served upon the one in possession though he is the tax title holder, if the person to whom it is addressed, that is, the one in whose name the land is assessed, cannot be found in the county. *Hutchinson v Child*, 164 M 195, 204 NW 648.

Under Laws 1915, Chapter 77, and Laws 1917, Chapter 488, the failure to give the notice of expiration of the time for redemption and the failure to file the tax certificate within the dates provided, operated to extinguish the lien for taxes in-

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cluded in the certificate and for subsequent taxes paid by the holder of the tax title. The statutes are statutes of limitation. *Hutchinson v Child*, 164 M 195, 204 NW 648.

The doctrine of caveat emptor applies to purchasers of tax titles. *Welcome v County*, 174 M 431, 219 NW 545.

In a tax proceeding the owner of real property answered alleging excessive over-valuation. The clerk failed to note the answer; judgment was entered by default against the land; respondents bought the tax certificate at the sale that followed at the excessive price. The court unaware of the default and sale reduced the assessment and entered judgment accordingly. Upon motion of the owner the court properly vacated the default judgment and sale, and also vacated the order reducing the amount of the tax judgment, and fixed the assessment at the reduced amount, making that a lien on the property. *County v Inter-City Realty*, 188 M 90, 246 NW 537.

In a proceeding under section 284.04 the plaintiff's tax title being found defective, a lien was adjudged against the premises and judgment entered, execution levied, and a sale made to the plaintiff. Under the procedure set forth in sections 284.01 and 284.02, no confirmation of the sale was necessary and a detainer action was the proper method to recover possession during the existence of defendant's life estate which was subject to the specific lien of the tax judgment. *Trask v Russell*, 193 M 213, 258 NW 164.

Whatever rights a landowner may possess in respect to redemption depend entirely upon statutory enactment. If between the purchaser at a tax sale and the owner of the property sold a contract relationship arises, the laws in existence at the time determine the contractual rights and obligations of the parties. *State v Aitkin*, 204 M 495, 284 NW 63.

284.02 WHO MAY PURCHASE.

HISTORY. Ex. 1902 c. 2 s. 62; R.L. 1905 s. 970; G.S. 1913 s. 2166; G.S. 1923 s. 2186; M.S. 1927 s. 2186.

284.03 REDEMPTION FROM SALE.

HISTORY. Ex. 1902 c. 2 s. 63; R.L. 1905 s. 971; G.S. 1913 s. 2167; G.S. 1923 s. 2187; M.S. 1927 s. 2187.

284.04 ACTION TO QUIET TITLE.

HISTORY. 1877 c. 6 s. 37; G.S. 1878 c. 11 s. 121; 1889 c. 198 s. 1; G.S. 1894 s. 1654; Ex. 1902 c. 2 s. 64; R.L. 1905 s. 972; G.S. 1913 s. 2168; G.S. 1923 s. 2188; M.S. 1927 s. 2188.

See annotations under section 284.01.

The statute intends that the certified copy of a resolution designating the newspaper for the publication of the delinquent list shall be filed with the clerk prior to the first publication and the failure so to file is jurisdictional and without such filing the judgment is invalid. *Foster v Bing*, 123 M 180, 143 NW 354.

A notice of the expiration of the time to redeem from a tax sale made under Ex. Laws 1902, Chapter 2, is ineffectual which fails to recite that the tax sale certificate was presented to the auditor and which includes a greater number of tracts sold separately, situated in different townships, and where the sheriff's return shows fees for service of over \$300.00 without any apportionment among the different tracts. *Culligan v Cosmopolitan*, 126 M 218, 148 NW 273.

That part of Revised Laws 1905, Section 956, which provides a form of notice of expiration of redemption of tax sale was superseded by Laws 1905, Chapter 270, so that a notice of expiration of redemption of any tax sale subsequent to 1902 must conform to Ex. Laws 1902, Chapter 2, Section 47. *Spear v Noonan*, 131 M 332, 155 NW 107.

When no one is in possession there must be a return of the sheriff to that effect as a prerequisite of the publication of the notice of expiration of period of redemption of a tax sale. *Nichols v Crocker*, 133 M 153, 157 NW 1072.

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The fee owner may maintain an action to determine adverse claims against a tax title holder without paying into court the amount paid at the tax sale and subsequent taxes, though if he had brought an action to cancel the tax certificate he would be required to make such payment into court. *Deever v Napier*, 139 M 219, 166 NW 187.

This section providing that 12 per cent interest shall be given upon the lien allowed to the holder of an invalid certificate for taxes paid by him was modified by Laws 1931, Chapter 315, and Laws 1933, Chapter 121, Section 3. *Bratrod v Security Bank*, 203 M 463, 281 NW 809.

In tax title proceedings to divest the owner of his title to real estate, there must be a strict compliance with statutory requirements; and the validity of a tax certificate and the rights of the holder are determined by the laws in force at the time the certificate is acquired. *Absetz v McClellan*, 207 M 202, 290 NW 298.

One who enters into a collusive agreement with a life tenant for the purpose of defeating the interests of the remainderman cannot enforce a lien on the property for the amount paid to acquire title at a tax sale. *Turner v Edwards*, 207 M 455, 292 NW 257.

Where one who has purchased tax-forfeited land from the state commences an action to quiet title, the safe thing for him to do is file a notice of lis pendens and publish same. OAG Jan. 5, 1945 (374g).

284.05 WHEN DEFENDANT A MINOR, WARD, OR INSANE.

HISTORY. Ex. 1902 c. 2 s. 66; R.L. 1905 s. 973; G.S. 1913 s. 2169; G.S. 1923 s. 2189; M.S. 1927 s. 2189.

284.06 PLAINTIFF TO PAY TAXES IN ACTION TO SET ASIDE.

HISTORY. Ex. 1902 c. 2 s. 65; R.L. 1905 s. 974; G.S. 1913 s. 2170; G.S. 1923 s. 2190; M.S. 1927 s. 2190.

The owner has the title and the tax judgment must be set aside by the defendant as the right to apply to the court below to have the judgment vacated until the plaintiff complies with the provisions of section 284.06, or have the judgment so modified to save his lien for the amount of taxes which he has paid. *Gribble v Livermore*, 72 M 517, 75 NW 710.

The plaintiff claims under a tax certificate and the defendant as the original owner. There being no finding that redemption had not been made and treating the statements concerning plaintiff's claims as proper finding of fact and not as mere evidentiary matters, they do not affect or contradict the findings of the ultimate fact that the defendant was and is the owner. *Gehr v Knight*, 77 M 88, 79 NW 652.

In an action to have a tax judgment annulled, the certificate having been regular on its face, the court may, as a condition to its order setting aside the judgment, require that subsequent taxes paid by the holder of the certificate and tacked to the same must be paid by the plaintiff. *Lewis v Knowlton*, 84 M 53, 86 N. W. 875.

Under section 284.04 the court is authorized to adjudge a lien to the holder of a tax certificate issued upon a sale under Ex. Laws 1902, even though the sale and certificate be valid, and there is time and opportunity to serve a notice of the expiration of time of redemption, and in such case the lien may include taxes paid subsequent to the giving of a notice of redemption whether such taxes be paid before or after they became delinquent. *Culligan v Cosmopolitan*, 126 M 218, 148 NW 273.

In an action to remove a cloud cast upon plaintiff's title by a tax certificate, in proving the elimination of the owner's right to redeem from a sale of land pursuant to a tax judgment, it is necessary to show by the assessment books that when the notice of expiration of time of redemption issued the land stood assessed in the name of the one to whom the notice was directed. The recitals in the notice do not furnish the required proof. *Lohn v Luck*, 129 M 367, 152 NW 764.

The plaintiff has the fee title; the defendant has a tax title. The fee owner may maintain an action under section 559.01 to determine adverse claims against

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a tax title holder without paying into court the amount paid at the tax sale and subsequent taxes, though if he had brought an action to cancel the tax certificate under sections 284.04 to 284.06 he would be required to make such deposit. *Deever v Napier*, 139 M 219, 166 NW 187.

284.07 COUNTY AUDITOR'S CERTIFICATE TO BE PRIMA FACIE EVIDENCE.

HISTORY. 1939 c. 341 s. 1; M. Supp. s. 2190-1.

The statutes do not allow the county attorney additional compensation for bringing an action to quiet title. 1940 OAG 189, June 10, 1940 (121b-21).

Methods of invalidating or canceling certificates. 1942 OAG 311, June 5, 1941 (409A-1).

284.08 ACTIONS TO TRY TITLE; VENUE; LIS PENDENS; SERVICE.

HISTORY. 1939 c. 341 s. 2; M. Supp. s. 2190-2.

The county attorney may not act as attorney for a private party in an action to quiet title to tax-forfeited lands. It is his duty to represent the state. 1942 OAG 190, Oct. 23, 1941.

Proceedings affecting real estate in which the state may be joined as defendant. 1942 OAG 282, Oct. 12, 1942 (374g).

284.09 ACTION WITHIN ONE YEAR; EXCEPTIONS; DISABILITY.

HISTORY. 1939 c. 341 s. 3; M. Supp. s. 2190-3.

284.10 CLAIMANT TO DEPOSIT TAXES IN COURT.

HISTORY. 1939 c. 341 s. 4; M. Supp. s. 2190-4.

The provisions of section 284.10 are mandatory and must be complied with by a party claiming adversely to the state in an action respecting lands claimed to have been forfeited to the state for taxes. Application of *Bonley*, 213 M 214, 6 NW(2d) 245.

Before an owner may attack the validity of a certificate of forfeiture he must make the deposit required by statute. OAG April 26, 1944 (425c-1).

284.11 STATE MAY BRING ACTION TO QUIET TITLE.

HISTORY. 1939 c. 341 s. 5; M. Supp. s. 2190-5.

284.12 COUNTY ATTORNEY OR ATTORNEY GENERAL TO BRING ACTION.

HISTORY. 1939 c. 341 s. 6; M. Supp. s. 2190-6.

This section provides a procedure whereby the county may proceed to quiet title to tax-forfeited lands in order to make them more salable and is permissive and not mandatory. OAG July 7, 1939 (412a-24).

284.13 VENUE; LANDS INCLUDED.

HISTORY. 1939 c. 341 s. 7; M. Supp. s. 2190-7.

284.14 CONTENTS OF COMPLAINT.

HISTORY. 1939 c. 341 s. 8; M. Supp. s. 2190-8.

284.15 DEFENDANTS; UNKNOWN CLAIMANTS.

HISTORY. 1939 c. 341 s. 9; M. Supp. s. 2190-9.

284.16 COMPLAINT; SUMMONS.

HISTORY. 1939 c. 341 s. 10; M. Supp. s. 2190-10.

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284.17 SERVICE OF SUMMONS; MAILING; PUBLICATION; LIS PENDENS; RETURN.

HISTORY. 1939 c. 341 s. 11; M. Supp. s. 2190-11.

Under statute relating to service of notice of expiration of redemption from tax sale and requiring sheriff to make investigation to ascertain which parcels are actually occupied and requiring sheriff to serve copies of the notice on the "persons in possession" of each parcel, all persons in possession must be served with proper notice, the words "persons in possession" meaning not necessarily all who chance to live on the premises, but persons whose possession is substantial and suited to the appropriate use of the property and is independent and of equal dignity with others in possession. *McHardy v State*, 215 M 132, 9 NW(2d) 427.

284.18 REGISTERED LANDS; FILING WITH REGISTRAR.

HISTORY. 1939 c. 341 s. 12; M. Supp. s. 2190-12.

Obtaining new Torren's certificate on tax-forfeited lands. OAG Dec. 13, 1944 (374j).

284.19 ANSWERS; CONTENTS; PROCEDURE.

HISTORY. 1939 c. 341 s. 13; M. Supp. s. 2190-13.

284.20 CLAIMANTS FILE NAMES WITH CLERK OF COURT; ENTITLED TO COPIES.

HISTORY. 1939 c. 341 s. 14; M. Supp. s. 2190-14.

284.21 PRESENT LAWS TO GOVERN.

HISTORY. 1939 c. 341 s. 15; M. Supp. s. 2190-15.

284.22 DEFECTS IN PROCEEDINGS; LAW LIBERALLY CONSTRUED.

HISTORY. 1939 c. 341 s. 16; M. Supp. s. 2190-16.

Statutes relative to tax title proceedings which result in the owner's forfeiture of his property require a more strict construction than those relating to mortgage foreclosure proceedings, which involve, merely a creditor's proceeding to recover a debt. Defects, in the instant case, in the tax-forfeiture proceedings were fatal. *McHardy v State*, 215 M 138, 9 NW(2d) 427.

Failure to make service on the wife rendered the tax-forfeiture proceeding void. *McHardy v State*, 215 M 142, 9 NW(2d) 432.

284.23 QUITCLAIM DEEDS TO STATE; DISCLAIMER.

HISTORY. 1939 c. 341 s. 17; M. Supp. s. 2190-17.

284.24 OPENING JUDGMENTS.

HISTORY. 1939 c. 341 s. 18; M. Supp. s. 2190-18.

284.25 LIEN FOR TAXES.

HISTORY. 1939 c. 341 s. 19; M. Supp. s. 2190-19.

284.26 TO BE SUPPLEMENTARY.

HISTORY. 1939 c. 341 s. 20; M. Supp. s. 2190-20.

284.27 COUNTY MAY QUIET TITLE.

HISTORY. 1939 c. 328 s. 10; M. Supp. s. 2139-27n.