

CHAPTER 341—H. F. No. 1573

An act relating to titles and adverse claims to lands claimed to have been forfeited to the state for taxes.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. County Auditor's certificate to be prima facie evidence.—The county auditor's certificate of forfeiture filed as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, Subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate or a certified copy of such certificate or of the record thereof, shall, for all purposes, be prima facie evidence that all requirements of the law respecting the taxation and forfeiture of the lands therein described were complied with, and that at the date of the certificate absolute title to such lands had vested in the state by reason of forfeiture for delinquent taxes as set forth in the certificate.

Sec. 2. Actions to try title.—Any person claiming adversely to the state or its successor in interest any right, title, or interest in or lien upon any land claimed to have been forfeited to the state for taxes may maintain an action against the state or its successor in interest for the purpose of determining the title to such land and the adverse claims and the rights of the parties, respectively, therein. Such action shall be brought in the district court of the county in which the land lies. The complaint shall be filed in the office of the clerk of court before the commencement of the action. A notice of the pendency of the action, describing the land, shall be filed for record in the office of the register of deeds of the county, or, in the case of registered land, shall be filed with the registrar of titles, and the action shall not be deemed to be commenced unless, in addition to other requirements, such notice is so filed. In the case of such lands held by the state in trust for its taxing districts and agencies, the summons, together with a copy of the complaint, shall be served upon the county auditor, also upon the county attorney, who shall defend the action. In the case of such lands otherwise held by the state, the summons, together with a copy of the complaint, shall be served upon the attorney general, who shall defend the action.

Sec. 3. Claimants to bring action within one year.—Except as otherwise herein provided, no cause of action or defense shall be asserted or maintained upon any claim adverse to the state or its successor in interest respecting any lands

claimed to have been forfeited to the state for taxes unless such cause of action or defense is asserted in an action commenced within one year after the filing of the county auditor's certificate of forfeiture as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, Subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate; provided, that if such certificate of forfeiture was filed before the passage of this act, such cause of action or defense may be asserted in an action commenced within one year after the passage of this act. Any person under disability to sue when such certificate was filed or when this act was passed, as the case may be, may assert such cause of action or defense in an action commenced at any time within one year after the removal of the disability. The limitations hereof shall apply to all cases where land is claimed to have been forfeited to the state for taxes, except as follows:

- (1) Cases where the alleged forfeiture is invalid because of jurisdictional defects in the proceedings;
- (2) Cases where the land was exempt from taxation;
- (3) Cases where the taxes upon which the alleged forfeiture was based were in fact paid prior to forfeiture;
- (4) Cases where the land at and ever since the time of forfeiture, has been in the actual, open, continuous, and exclusive possession of the owner at the time of forfeiture, or his successors in interest, claiming adversely to the state or its successor in interest, in which case the running of the period of limitations hereunder shall be suspended as to such owner or his successor in interest during the time of such possession, but no longer.

Sec. 4. Claimant to deposit taxes in court.—In any action respecting lands claimed to have been forfeited to the state for taxes, no cause of action or defense asserted by any party adversely to the state or its successor in interest, based in whole or in part upon any ground other than the claim that the land was tax exempt or that the taxes have been paid, shall be entertained unless the party asserting the same shall, at the time of filing his complaint or answer, as the case may be, deposit with the clerk of the court in which the action is pending, for the use of the state and its successor in interest, if any, as their interests may appear, a sum equal to the amount of the taxes and special assessments, with interest, penalties, and costs

thereon, accrued against the land at the time of forfeiture, together with interest at the rate of four per cent per annum on said sum from the date of forfeiture to the date of filing the complaint or answer. If the forfeiture of the land to the state be invalidated by the court's decision, the court shall order said sum to be applied on the lien to be determined in such cases as hereinafter provided. If the forfeiture be not invalidated by the decision, the court shall order said sum returned to the depositor.

Sec. 5. State may bring action to quiet title.—The title of the state or its successor in interest to any lands claimed to have been absolutely forfeited to the state for delinquent taxes may be quieted and all adverse claims thereto and the rights of all parties therein, respectively, may be determined, and, in the case of registered lands, the issuance of new certificates of title thereto may be obtained, by action brought by the state or its successor in interest as herein provided; provided, that before any such action shall be commenced the county auditor's certificate of forfeiture shall be filed as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, Subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate.

Sec. 6. County attorney to bring action.—Actions respecting lands held by the state in trust for its taxing districts and other agencies shall be brought by the county attorney at the direction of the county board of the county in which the lands lie. Expenses of such actions shall be paid from the forfeited tax sale fund and charged against the shares of the taxing districts or agencies in which the lands lie, or from the general revenue fund, as the county board may direct. Actions respecting lands held otherwise by the state shall be brought by the attorney general, and the expenses thereof shall be paid from such funds as may be appropriated and available therefor.

Sec. 7. Venue.—Every such action shall be brought in the district court of the county in which the lands lie. The state may include in one action all of the land in any county claimed to have been absolutely forfeited to the state for taxes, or any part or parts thereof. Any person who has succeeded to the interest of the state under such claim of forfeiture may include in one action all of the land in any county wherein he has acquired such interest, or any part or parts thereof.

Sec. 8. Contents of complaint.—The complaint shall set forth a description of the lands, shall allege that the state, or

its successor in interest, as the case may be, is the absolute owner thereof in fee simple as a result of absolute forfeiture thereof to the state for delinquent taxes, and shall pray that the plaintiff's title and all adverse claims to such lands and the rights of all parties therein, respectively, be determined, and, in the case of registered lands, the complaint shall state that the same are registered and shall pray that a new certificate or certificates of title be issued to the person or persons entitled thereto. The complaint may contain any other allegations or provisions pertinent to the issues. In describing the lands, two or more adjacent parcels may be consolidated in a single description, if deemed expedient.

Sec. 9. Who shall be defendants.—The owners of such lands at the time of forfeiture, all persons in actual possession of such lands, claiming adversely to the plaintiff, and all other persons claiming any interest in or lien thereon adverse to the plaintiff, so far as shown of record or known to the attorney for the plaintiff, shall be made defendants in the action; provided, that failure to join any person as a defendant shall not impair the effect of the action as to those joined. It shall not be necessary to specify in which parcels of land the defendants respectively are interested. The plaintiff may also add to the names of the defendants in the summons, complaint, and other papers in the action the following: "also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein," and all such persons and parties shall thereupon be deemed to be joined as defendants, and, upon being served as herein provided, shall be bound and concluded by the judgment.

Sec. 10. Filing of complaint.—The complaint shall be filed in the office of the clerk of the district court. The summons shall be issued by the attorney for the plaintiff, and shall be in substantially the same form as in other civil actions relating to determination of titles, except that it shall require each defendant to file his answer with the clerk of the court within the time allowed for answering, instead of serving the same upon the attorney for the plaintiff, and shall contain, in addition to other provisions required by law, the following:

"And you are hereby notified that the object of said action, among other things, is to determine the title and adverse claims to the lands hereinafter described, claimed to have been absolutely forfeited to the state for delinquent taxes, and to obtain the issuance to the persons entitled thereto of new certificates of title to any of said lands which have been regis-

tered, and that said action affects the following described lands situated in the county of, State of Minnesota:

(Insert description of lands)"

Sec. 11. Service of summons, etc.—The summons shall be served in the manner provided by law for the service of summons in other civil actions in the district court, except as otherwise herein provided. The summons shall be served upon all persons who are not residents of the state and upon those designated as "all other persons or parties unknown claiming any right, title, estate, lien, or interest in the lands described in the complaint herein" by publication for three successive weeks in a qualified legal newspaper published in the county in which the action is pending; provided, that personal service without the state may be made on any nonresident defendant in the manner provided by law. No affidavit of nonresidence, notice of lis pendens, or sheriff's return need be filed before the commencement of the publication or before the making of personal service without the state. At least twenty days before the trial of action, the attorney for the plaintiff shall mail a copy of the summons to each nonresident defendant whose post-office address he has been able to ascertain by diligent search and inquiry, of which the affidavit of the attorney, filed with the clerk, shall be conclusive evidence. The return of the sheriff that after diligent search he has been unable to find any defendant within the county and that such defendant cannot be found therein, together with the affidavit of plaintiff's attorney that he believes that such defendant is not a resident of the state, filed with the clerk at any time before the trial, shall be prima facie evidence that the facts therein stated are true and that such defendant is not a resident of the state.

Sec. 12. Registered lands.—In case of any of the lands involved in the action are registered, a copy of the summons, embracing a description of the registered lands but omitting the unregistered lands, shall be filed with the registrar of titles, and such further notice shall be given as the court may direct before the issuance of any new certificate of title shall be ordered; provided, that failure to file such copy of the summons or to give such other notice shall not otherwise affect the validity of the proceedings.

Sec. 13. Answers.—The defendants in the action may answer separately, or such of them as are jointly interested in any particular parcel or parcels of land may answer jointly. No answer merely alleging the defendant's title or denying the

plaintiff's title generally shall be sufficient, but every answer shall describe the particular parcel or parcels of land in or upon which the defendant claims an interest or lien, together with the nature of such interest or lien, and shall state specifically the grounds upon which such claim is based and the grounds upon which the plaintiff's title is claimed to be defective or void. The answer may contain any other allegations or provisions pertinent to the issues. Every answer shall be filed with the clerk within the time allowed for answering the summons, unless the time be extended by agreement of plaintiff's attorney or by order of the court. Before the trial the clerk shall make and file his certificate as to all defendants who have not answered or otherwise appeared, and such certificate shall be prima facie evidence of the facts therein stated.

Sec. 14. Claimants may file names with clerk of court.—Any person having or claiming an interest in any land in any county may, upon payment of a fee of 50c, file with the clerk of court of the county a statement of his name, place of residence, post-office address, and a description of the land in which he has or claims an interest. The clerk shall preserve all such statements, maintain an alphabetical index thereof, and furnish certificates thereof in like manner as certificates of judgments, upon payment of like fees. Every such statement shall be prima facie evidence and constructive notice of the name, residence, address, and claim of interest therein set forth to all persons interested in any action hereunder respecting the lands described in the statement. Service of summons, notices, or other process in any action hereunder respecting such lands may be made upon the maker of the statement at the place of residence stated, if within the state, as if the same were his house of usual abode. If the residence stated be without the state, a copy of the summons and any other paper required to be mailed in the action shall be mailed to the maker of the statement at the address therein stated. Any such statement may be withdrawn by the maker at any time by written notice to the clerk of court.

Sec. 15. Present Laws to govern.—So far as applicable and not inconsistent herewith, all provisions of law relating to actions for the determination of titles in the district court shall apply to and govern actions hereunder.

Sec. 16. Defects in proceedings.—The title of the state to land forfeited for delinquent taxes shall not be held invalid in any action or proceeding by reason of any failure, omission, error, or defect in the proceedings respecting the taxation of

such land or the forfeiture thereof unless the court shall determine that such failure, omission, error, or defect was fatal to the jurisdiction of the authorities in the proceedings, or that the rights of the owner or other party in interest were substantially prejudiced. All provisions of law in that behalf shall be construed liberally in favor of the state and its officers and agents. The burden of proving that the title of the state or its successor in interest is invalid in any such case shall rest upon the party so asserting.

Sec. 17. Quit claim deeds to state.—Any person having or claiming an interest in or lien upon land claimed to have been forfeited to the state for delinquent taxes may execute and deliver to the state a quitclaim deed of the land, conveying all his right, title, and interest therein, in form approved by the attorney general; or, if an action respecting such land has been commenced against such person by the state or its successor in interest, such person may either execute and deliver such deed, or may answer in the action, disclaiming any interest in or lien upon the land. If the state has conveyed the land, the deed shall inure to the benefit of the state's successor in interest. In either of the cases mentioned in this section, if a deed be delivered or disclaimer made at any time before the entry of judgment in an action brought by the state or its successor in interest, as herein provided, the plaintiff shall not recover costs personally against the person executing such deed or disclaimer.

Sec. 18. Opening judgments.—No judgment in any action brought hereunder by the state or its successor in interest shall be opened, vacated, or set aside for the purpose of permitting any defendant upon whom personal service of the summons was made either within or without the state, and who was in default, to come in and defend the action at any time. No judgment in any such action shall be opened, vacated, or set aside for the purpose of permitting any defendant upon whom service of the summons was made by publication, and who was in default, to come in and defend such action unless application therefor be made before the time to appeal from the judgment has expired. Upon the expiration of the time to appeal, the judgment shall become conclusive and shall not thereafter be opened at the instance of any defaulting defendant; provided, that this shall not impair the effect of the judgment prior to such time.

Sec. 19. Lien for taxes, etc.—(a) Whenever in any action or proceeding in court, the forfeiture to the state for taxes

of any parcel of land which shall have been sold as provided by law is invalidated, except in the cases where such forfeiture is invalidated because the land was exempt from taxation or because all taxes were paid prior to forfeiture, the court shall determine, upon such hearing and evidence as it may require, the following facts :

(1) The amount of all taxes, special assessments, penalties, interest and costs, if any, which were due against the land at the time of the supposed forfeiture;

(2) The amount of all subsequent taxes and special assessments that would have been assessed and levied against the land but for the supposed forfeiture;

(3) The amount of all taxes paid by the purchaser, his heirs, representatives, or assigns, since the sale;

(4) The value of any improvements made on the land by the state before the sale;

(5) The value of any improvements made on the land by the purchaser, his heirs, representatives, or assigns after the sale;

(6) The net rental income received by the state or its agencies from the land prior to the sale thereof, after deducting all expenses of maintenance and repairs;

(7) (a) The amount of the purchase price or portion thereof actually paid by the purchaser, his heirs, representatives, or assigns.

(b) Except as otherwise herein provided, the court shall thereupon adjudge and declare a lien in favor of the purchaser, his heirs, representatives, or assigns, upon the land for the total amount of the foregoing items numbered (1) to (5), inclusive, with interest on the respective items thereof from the time the same accrued or were paid by the purchaser, as the case may be, at four per cent per annum less the amount of item number (6).

(c) In all cases where the sum of items numbered (1) to (5), inclusive, with interest as aforesaid, less item (6), exceeds the total amount of items (3), (5), and (7), with interest as aforesaid, the court shall deduct the amount of the excess from the lien in favor of the purchaser and adjudge and declare a lien for such excess in favor of the state, which shall be deemed to be a party to the proceeding for that purpose.

(d) The court shall adjudge that the land be sold by the sheriff to satisfy, first, the lien of the purchaser, his heirs, representatives, or assigns, and, second, the lien of the state, if any, together with the costs of the judgment and sale, in the same manner and with like effect as in the case of sale of land on execution.

(e) In case the amount of item (7), with interest as aforesaid, exceeds the total amount of items (1), (2), and (4), with interest as aforesaid, less item (6), the purchaser, his heirs, representatives, or assigns, shall be entitled to refundment of the excess from the forfeited tax sale fund, payable by warrant of the county auditor upon order of the court.

(f) Whenever land shall be sold in any such proceeding to satisfy a lien adjudged in favor of the state, the sheriff shall pay the proceeds of such sale, after payment of prior liens adjudged in the proceeding, and costs, to the county auditor, who shall note upon the tax records the receipts of such sum and the purpose thereof, pursuant to the judgment of the court, and shall deposit the same with the county treasurer, to the credit of the forfeited tax sale fund.

(g) At any sale of such land to satisfy a lien adjudged in favor of the state, the county auditor, with the approval of the county board, may bid in the land in the name of the state, paying the amount required out of the forfeited tax sale fund, and if the land be sold to the state and be not redeemed, it shall be held and disposed of as in case of lands forfeited for taxes.

Sec. 20. Act to be supplementary.—Except so far as may be necessary to give effect to the provisions hereof, the provisions of this chapter shall be deemed supplementary to and not exclusive of other laws dealing with the same subject matter, and the provisions of such other laws, so far as applicable and not inconsistent herewith, shall remain in force, subject to the provisions of this chapter.

Sec. 21. Provisions severable.—The provisions of this act shall be severable, and if any provision or the application thereof should be declared unconstitutional or invalid, it shall not affect any other provision or application not necessarily involved therein.

Sec. 22. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed.

Approved April 20, 1939.