

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

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to do no more than to quitclaim his interest in the land. *McNellis v. Hilkrowski*, 98 Minn. 127, 107 N. W. 965.

Conveyance in presenti—Estoppel.—Under an indenture, which was, in effect, a conveyance in presenti and not an agreement for a conveyance, the grantors were estopped from subsequently taking a conveyance of the same premises and asserting the same against their grantee. *Bradley Estate Co. v. Bradley*, 97 Minn. 161, 106 N. W. 110.

3341. Warranty and quitclaim deeds.

Covenant of warranty.—A warranty deed of the west 5 acres of lot 12 in section 1, etc., conveyed and warranted the full quantity named. *Larson v. Goetti*, 103 Minn. 272, 114 N. W. 840.

3350. Judgments.

Laws 1897, c. 76, cited in *Kipp v. Clinger*, 97 Minn. 135, 106 N. W. 108.

3357. Recording act—Unrecorded conveyances void, when.

Notice—Possession.—Actual possession is notice to all the world of the title and rights of the person in possession, and of all facts connected therewith which reasonable inquiry would disclose. The rule applies to one redeeming from a foreclosure of land, which, at the time of redemption, is in the actual possession of a person other than the mortgagor. *Niles v. Cooper*, 98 Minn. 39, 107 N. W. 744, 13 L. R. A. (N. S.) 49.

Cited in *Henderson v. Murray*, 121 N. W. 214.

— **Instrument not entitled to record.**—Where a mere personal covenant not running with the land, although recorded, is not contained in a deed or indenture in the chain of title, subsequent purchasers and assigns are not bound thereby, unless they have such knowledge or notice thereof as to imply that the burden was assumed as a part of the consideration. *Sjoblom v. Mark*, 103 Minn. 193, 114 N. W. 746, 15 L. R. A. (N. S.) 1129.

See note under section 3334.

CHAPTER 64.

PLATS.

3366. Survey and plat — Monument — Rivers, lakes, etc.—The land shall be surveyed and a plat made setting forth and naming all thoroughfares, showing all public grounds, and giving the dimensions of all lots, thoroughfares and public grounds. In-lots shall be numbered progressively, or by the block in which they are situated, and out-lots shall be numbered and shall not exceed ten acres in size. At least three iron or stone monuments shall be placed at some corners in the ground, in such way that the lines between said monuments form two or more base lines from which to make future surveys. The monuments and the angles between said base lines shall be shown on the plat, as well as the north and south line. All rivers, streams, creeks, lakes, ponds, swamps and all public highways and thoroughfares laid out, opened or traveled—existing before the platting—shall be correctly located and plainly shown and designated on the plat. (R. L. § 3366, as amended by Laws 1907, c. 438, § 1.)

3367. Dedication — Certification — Approval — Verification.—On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. Said instrument shall contain a full and accurate description of the land platted and shall set forth what part or parts of said land is dedicated, and also to whom, and for what purpose said part or parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown on the plat. If

and the same are hereby declared to be legal and valid, and the records of such conveyances heretofore actually recorded in the office of the proper county, shall be in all respects valid and legal, and such conveyances and records thereof shall have the same force and effect in all respects for the purpose of notice, evidence or otherwise, as are or may be provided by law in regard to conveyances in other cases. Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts in this state; provided (further), that this act shall not be construed to extend to any case where vested rights in any such property have been acquired by third parties. ('05 c. 112 § 1)

Historical.—"An act to legalize conveyances of real property made by husband direct to wife, and the records of such conveyances." Approved April 5, 1905.

[3336—]2. **Same.**—That all conveyances of real property within this state, made between the 2nd day of April, 1906, and the 4th day of April, 1906, in which a married man has conveyed real property directly to his wife, shall be and the same are hereby declared legal and valid and entitled to be recorded and the records of such conveyances, when recorded in the office of the proper county, shall be in all respects valid and legal, and such conveyances and records thereof shall have the same force and effect in all respects for the purpose of notice, evidence or otherwise, as are, or may be, provided by law, in regard to conveyances in other cases. Provided, that the provisions of this act shall not apply to any act or proceedings now pending in any of the courts in this state; provided, further, that this act shall not be construed to extend to any case where vested rights in any such property have been acquired by third parties. ('07 c. 432 § 1)

Historical.—"An act to legalize certain conveyances of real property made by husband to wife." Approved April 25, 1907.

[3336—]3. **Conveyances by husband to wife—Curative.**—That all conveyances of real property within this state made between the 26th day of June, 1907, and the 28th day of June, 1907, in which a married man has conveyed real property directly to his wife, and the records of such conveyances which have been recorded in the office of the register of deeds of the proper county in this state, shall be, and the same are hereby declared legal and valid, and such conveyances and the records thereof shall have the same force and effect in all respects for the purpose of notice, evidence, or otherwise, as are or may be provided by law regarding conveyances in other cases; and the rights of any grantee under such a deed shall not be affected by the grantor having died, or by such grantee having subsequently applied for or obtained letters of administration upon the estate of such deceased grantor, or by the land conveyed by any such deed having been set apart as a homestead to such grantee as the widow of such deceased grantor by a probate court in this state. Provided, that the provisions of this act shall not apply to any action or proceedings in any courts of this state, other than the probate proceedings above specified. Provided further, that this act shall not impair vested rights heretofore acquired by third parties in such property for value. ('09 c. 55 § 1)

Historical.—"An act to legalize certain conveyances of real property made by husband to wife." Approved March 12, 1909.

3338. Husband or wife of insane person.

Laws 1891, c. 75, cited in *Lucy v. Lucy*, 120 N. W. 754.

3340. Quitclaim—Words of inheritance unnecessary to pass fee.

Quitclaim deed.—Where a contract for sale of land contained a stipulation that the grantor would, upon payment of the price, convey and assure the land to the grantee by a good and sufficient quitclaim deed, the grantor was required

there are no wet lands or public highways to be designated in accordance with section 1[3336] of this act, he shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title be presented for approval to the council of the city or village in which the land is located; and, if the land is located outside the limits of any city, incorporated village, then to the board of county commissioners of the county in which the land is located. If the council or board to whom the plat has been presented have any reason to doubt the accuracy of the same, they may, after having notified the proprietor to that effect, employ a competent surveyor to check and verify the surveys and plat, and the surveyor shall make a full report of his findings. If the survey or plat is found incorrect, the expense of verifying the same shall be paid by the proprietor, but if the survey and plat is found to be correct, then this expense shall be paid by the city, village or county to whose council or board the plat has been presented for approval. When the plat has been approved, it shall so be certified to by the city clerk, village recorder, or county auditor, as the case may be. (R. L. § 3367, as amended by Laws 1907, c. 438, § 2.)

3368. Recording—Fees—Penalties.—Every plat, when duly certified, signed, and acknowledged, as provided in the foregoing section, shall be recorded in the office of the register of deeds. The register shall transcribe such plat, or bind the original into the proper volume, and shall receive as his fee five cents for each lot designated in the plat in case of transcribing, and two cents for each lot when the original is bound. Any person who shall dispose of, lease, or offer to sell any land included in a plat before the same is recorded, shall forfeit to the county \$25 for each lot or part of a lot so disposed of, leased or offered; and any official or person whose duty it is to comply with any of the provisions of this chapter shall forfeit not less than \$10, nor more than \$100, for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of the county. (R. L. § 3368, as amended by Laws 1907, c. 438, § 3.)

Conveyance according to plat—Estoppel.—Where the owner of land, after platting, sells lots or blocks with reference to the plat, he and his grantees are estopped from denying the legal existence of the streets and public grounds dedicated by the plat. *Pondler v. City of Minneapolis*, 103 Minn. 479, 115 N. W. 274.

3369. Vacation of plats.—Upon the application of an owner of land included in any plat, and upon proof that all taxes assessed against such land have been paid, and a notice hereinafter provided for given, the district court may vacate or order all or any part of such plat, and adjudge the title to all streets, alleys and public grounds to be in the persons entitled thereto; but streets or alleys connecting separate plats or lying between blocks or lots, shall not be vacated between such lots, blocks or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out. The petitioner shall cause two weeks' publication to be at least ten days before the term at which it shall be heard. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation, and if, in the judgment of the court, the same would be damaged, the court may determine the amount of such damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by

the register of deeds; provided, however, that the district court shall not vacate or alter any street, alley or public ground dedicated to the public use in or by any such plat in any city, town or village organized under a charter or special law which provides a method or procedure for the vacation of streets and public grounds by the municipal authorities of such city, town or village. Provided, that the provisions of this act shall not apply to nor be affected in any city of the first class having and operating under a special charter. (R. L. § 3369, as amended by Laws 1909, c. 503, § 1.)

[3369—]1. Certain plats validated.—That in all cases where the record owner of real estate in this state has heretofore conveyed the same or any part thereof, by express reference in the instrument of such conveyance to a plat of such real estate on file in the office of the register of deeds in the county in which such real estate is situated, and a plat so referred to in said conveyance is actually of record in such register's office at the time when such conveyance is made, such record owner and all persons claiming under such record owner, shall be forever estopped from questioning the validity of such plat, notwithstanding that at the time of the execution and record thereof, title to the premises covered thereby, appears of record to have been in the name of a person or persons other than the person who executed such plat as proprietor of the premises covered thereby, and notwithstanding any irregularity or informality in the execution, acceptance or record of such plat, and in all such cases such plat shall be deemed and taken to be valid, confirmed and legalized in all respects as if actually executed and recorded by the person or persons who appear of record to have been the owners of the premises covered thereby at the time of the execution and record thereof. ('05 c. 129 § 1)

Historical.—"An act to confirm, legalize and validate certain plats of land heretofore filed for record." Approved April 11, 1905.

[3369—]2. Same—To what plats applicable.—This act shall apply to all plats heretofore recorded of any townsite and to any addition to any town, village or city within the state. ('05 c. 129 § 2)

[3369—]3. Same—Pending actions.—Nothing herein contained shall be construed to affect the subject matter of any action or proceeding now pending in any of the courts of this state. ('05 c. 129 § 3)

[3369—]4. Certain certificates and plats—Prima facie evidence.—That all certificates heretofore made and recorded under the provisions of chapter twenty-five General Laws of Minnesota for the year 1891, the same being "An act relative to plats of towns and cities in this state and of additions to, and subdivisions thereof and the correction and legalization of the same," or the record of such certificates, together with the plats to which they respectively refer, shall be prima facie evidence in all cases as to the lands covered by said plats. ('07 c. 53 § 1)

Historical.—"An act to prescribe the effect to be given to certificates heretofore made and recorded under the provisions of chapter twenty-five, General Laws of Minnesota for the year 1891, the same being 'An act relative to plats of towns and cities in this state and of additions to and subdivisions thereof and the correction and legalization of the same,' and to the record of such certificates." Approved March 21, 1907.