

CHAPTER 566

FORCIBLE ENTRY AND UNLAWFUL DETAINER

566.01 FORCIBLE ENTRY, PENALTY

The Municipal Court Act of Minneapolis, Special Laws 1889, Chapter 34, as amended by Laws 1917, Chapter 407, gives jurisdiction of an action in unlawful detainer whether the title to the real estate is involved or not. The purpose of an unlawful detainer action is to determine the right to present possession of property and such an action is not a bar to a subsequent action involving title to the property. *Henschke v Young*, 226 M 339, 32 NW(2d) 854.

In an action in unlawful detainer, where it was shown that plaintiff had not complied with the requirements of the Housing and Rent Act of 1947, 61 Stat. 193, 50 U.S.C.A. Appendix, Section 1881, et seq., which are necessary prerequisites to an action to recover possession of controlled housing accommodations, there was evidence to sustain the trial court's finding that defendants were not guilty of unlawful detention of the premises. *Barker v Sharp*, 229 M 152, 38 NW(2d) 221.

The Minneapolis municipal court has jurisdiction over actions of forcible entry and unlawful detainer, regardless of whether title to realty is involved, but such jurisdiction does not embrace the power to entertain or consider a defense which is insufficient per se and can be asserted only with the aid of affirmative equitable relief. *Dahlberg v Young*, 231 M 60, 42 NW(2d) 570.

No action based on a claim of illegal eviction may be maintained by defense if based solely on unlawful detainer proceedings providing the landlord complied with all the legal requirements necessary under the unlawful detainer statute. *Behrendt v Rassmussen*, 234 M 97, 47 NW(2d) 779.

566.02 UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO FINE

An unlawful detainer action determines the right to present possession. It does not adjudicate the ultimate legal or equitable rights of ownership. It is not a bar to an action involving title. *Gallagher v Moffett*, 233 M 330, 46 NW(2d) 792.

In a defense action against the landlord to recover damages for alleged illegal eviction, the evidence sustained the jury's finding that the landlord did not in good faith evict tenant from the premises. The statute allowing the person who has been put out of realty without lawful authority to recover damages applies only when the person is put out in a forcible manner. *Behrendt v Rassmussen*, 234 M 97, 47 NW(2d) 779.

566.04 LIMITATION

HISTORY. RS 1851 c 87 s 13; 1852 Amend p 17 s 72; PS 1858 c 77 s 13; GS 1866 c 84 s 12; GS 1878 c 84 s 12; Ex1881 c 9 s 2; GS 1894 s 6119; RL 1905 s 4039; GS 1913 s 7659.

566.05 COMPLAINT AND SUMMONS

No one is privy to a judgment whose succession to rights of property affected thereby occurred prior to the commencement of the action in which the judgment was rendered. One is not a bona fide purchaser and entitled to the protection of the recording act, though he paid a valuable consideration and did not have actual notice of a prior unrecorded conveyance from the same grantor, if he had knowledge of facts which ought to have put him on an inquiry that would have led to a knowledge of such conveyance. Where the mortgagor's title is free of outstanding claims

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and equities, the mortgagee's rights under the mortgage also are free of them. *Henschke v Christian*, 228 M 142, 36 NW(2d) 547.

A constable has only such powers to serve papers as are conferred upon him by statute. *Dahlberg v Young*, 231 M 60, 42 NW(2d) 570.

566.09 JUDGMENT, FINE, EXECUTION

The right to present possession of real property is determined in an unlawful detainer action and such an action is not a bar to subsequent action involving title to the property. *Henschke v Young*, 226 M 339, 32 NW(2d) 854.

566.11 WRIT OF RESTITUTION; EFFECT OF APPEAL

HISTORY. RS 1851 c 87 s 13; 1852 Amend p 17 s 72; PS 1858 c 77 s 13; GS 1866 c 84 s 12; GS 1878 c 84 s 12; Ex1881 c 9 s 2; GS 1894 s 6119; RL 1905 s 4046; 1909 c 496 s 2; GS 1913 s 7666.

Irregularities and errors in a proceeding over which an inferior tribunal may lawfully exercise jurisdiction cannot be reviewed by writ of prohibition, such writ being a preventive and not a corrective remedy. *Heinsch v Kirby*, 222 M 352, 24 NW(2d) 493; *State ex rel v Wright*, 225 M 584, 28 NW(2d) 682.

566.12 APPEAL, STAY

Where the statute provides only for appeals from judgments in unlawful detainer actions, an appeal does not lie from an order denying a motion to set aside the service of summons in such action. *Pushor v Dale*, M, 60 NW(2d) 128.

566.14 NOT TO BE DISMISSED FOR FORM; AMENDMENTS; RETURN

HISTORY. RS 1851 c 87 s 20, 21, 23; 1852 Amend p 17 s 73; PS 1858 c 77 s 20, 21, 23; GS 1866 c 84 s 16, 17, 19; GS 1878 c 84 s 16, 17, 19; GS 1894 s 6123, 6124, 6126; RL 1905 s 4049; GS 1913 s 7669.

COMPENSATORY AND COLLECTION REMEDIES

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570.01 WHEN AND IN WHAT CASES ATTACHMENT ALLOWED

Federal tax lien, when superior to prior attachment lien. 35 MLR 580.

An action for breach of promise to marry is in form on contract, but in respect to damages, it is governed by the law applicable to tort actions; and the jury in assessing damages could consider defendant's financial worth, social position, the pecuniary and social advantages plaintiff would have enjoyed if defendant performed his contract, and the mental pain and anguish suffered by the plaintiff. *Kugling v Williamson*, 231 M 135, 42 NW(2d) 534.

A court commissioner may engage in the private practice of law if such practice does not interfere with or conflict with his official duties. OAG March 6, 1950 (128-B).

570.013 PUBLIC EMPLOYEES; ATTACHMENT OF WAGES

HISTORY. 1953 c 110 s 1.

NOTE: See sections 181.04-181.07.