548.04 JUDGMENT IN REPLEVIN.

In an action to recover the possession of personal property, judgment may be rendered for the plaintiff and for the defendant, or for either. Judgment for either, if the property has not been delivered, and a return is claimed in the complaint or answer, may be for the possession or the value thereof in case possession cannot be obtained, and damages for the detention, or the taking and withholding. If possession cannot be obtained of the whole of such property but may be obtained for part thereof then the party entitled thereto may have possession of the part which may be obtained and recover the value of the remainder or may elect to take judgment for the value of the whole of such property. When the prevailing party is in possession of the property, the value thereof shall not be included in the judgment. If the property has been delivered to the plaintiff, and the action be dismissed before answer, or if the answer so claim, the defendant shall have judgment for a return, and damages, if any, for the detention, or the taking and withholding, of such property; but such judgment shall not be a bar to another action for the same property or any part thereof; provided, that in an action for the recovery of specific personal property by the vendor in a conditional sale contract therefor, or by the vendor's successor in interest, by reason of default in the terms of such conditional sale contract, where it shall appear that the defendant in said action is an innocent purchaser for value of the property and without actual knowledge of the existence of such conditional sale contract, in the event that the plaintiff shall prevail in the action, the measure of the plaintiff's recovery shall be the balance unpaid on the conditional sale contract with interest thereon at the rate fixed in the conditional sale contract, if any, reasonable attorney's fees to be approved by the court and the costs and disbursements of the action.

History: *(9395) RL s 4267; 1931 c 202 s 1; 1986 c 444*