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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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4 purchaser had previous notice of the fraudulent intent of
5 his immediate grantor, or of the fraud rendering void the title
6 of such grantor.

1 SECT. 22. The term "conveyance," as used in this
2 chapter, shall be construed to embrace every instrument in C. S. p. 459, Sect. 7.]
3 writing, except a last will and testament, whatever may be
4 its form, and by whatever name it may be known in law,
5 by which any estate or interest in lands is created, aliened,
6 assigned, or surrendered. c 51

CHAPTER XLII.

OFFICIAL TRUSTS.

1 SECTION 1. When the corporate authorities of any town,
2 or the judge of the county court for any county in which
3 any town is situated, enter at the proper land office the
4 land or any part of the land settled and occupied as the site C. S. p. 335, Sect. 1.
5 of such town, pursuant to and by virtue of the provisions of
6 the act of congress entitled, "an act for the relief of the
7 citizens of towns upon the lands of the United States under
8 certain circumstances," passed May 23d, A. D. 1854, such
9 corporate authorities, or judge (as the case may be,) shall
10 dispose of and convey the title to such lands or to the sev-
11 eral blocks, lots, parcels or shares thereof to the persons
12 hereinafter described, and in the manner hereinafter speci-
13 fied. c 33

1 SECT. 2. Any such corporate authorities, or judge hold-
2 ing the title to any such lands in trust, as declared in the
3 said act of congress, shall, by a good and sufficient deed of C. S. p. 335, Sect. 2.
4 conveyance, grant and convey the title to each and every
5 block, lot, share or parcel of the same, to the person en-
6 titled thereto, according to his rights or interest in the
7 same, as they existed in law or equity at the time of the
8 entry of such lands; and when any parcel or share of such
9 lands is occupied or possessed by one or more persons claim-
10 ing the same by grant, lease or sale from one or more other
11 persons, the respective rights and interest of such persons
12 in relation to each other in the same, shall not be changed
13 or impaired by any such conveyance. Every deed of con-
14 veyance by such corporate authorities, or judge, pursuant
15 to the provisions of this chapter, shall be so executed and
16 acknowledged as to admit the same to be recorded; and if
17 made previous to the issuing of the patent of such lands, it

18 shall contain a covenant that the grantor shall, after the
 19 issuing of such patent, execute, acknowledge and deliver to
 20 the grantee, his heirs or assigns, such further deed of con-
 21 veyance as may be, or become necessary to fully vest and
 22 perfect the title to the lands therein described, in the gran-
 23 tee, his heirs or assigns.

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 C. S. p. 386, Sect. 3.
 1 SECT. 3. Within thirty days after the entry of such
 2 lands, the corporate authorities, or judge entering the same,
 3 shall give public notice of such entry by posting notice
 4 thereof in at least three public places in such town, and by
 5 publishing such notice in a newspaper printed and publish-
 6 ed in the county in which such town is situated; or in case
 7 there is no such newspaper, then in some newspaper printed
 8 and published at the seat of government. Such notice shall be
 9 so published once in each week for at least three successive
 10 weeks, and shall contain an accurate copy of the descrip-
 11 tion of the lands so entered, as the same is stated in the
 12 certificate of entry, or duplicate receipt for the purchase
 13 money thereof, given by the land officers at the time of the
 14 entry.

C. S. p. 386, Sect. 4.
 Amended.
 1 SECT. 4. Every person, association or company claim-
 2 ing to be entitled to such lands, or any block, lot, share or
 3 parcel thereof, shall within sixty days after the first publi-
 4 cation of such notice, in person, or by his duly authorized
 5 agent or attorney, sign a statement in writing containing
 6 an accurate description of the particular parcel or parts in
 7 which he claims to have any interest, and the specific right,
 8 interest or estate therein, which he claims to be entitled to
 9 receive, and deliver the same to or into the office of such
 10 corporate authorities or judge; and all persons failing to
 11 sign and deliver such statement within the time specified in
 12 this section, shall as against any adverse claimants be for-
 13 ever barred the right of claiming or recovering such lands,
 14 or any interest or estate therein, in any court of law or
 15 equity.

C. S. p. 386, Sect. 5.
 Amended.
 1 SECT. 5. In case there are adverse claimants to such
 2 lands, or to any part, parcel or share thereof, and the con-
 3 troversy is not settled by agreement in writing, between
 4 the parties thereto, such controversy may be determined by
 5 voluntary submission thereof in writing, by the parties, to
 6 reference or arbitration, and by the written award of the
 7 arbitrators. In case any such controversy is not so settled or
 8 determined within three months from the time of the entry
 9 of the land, either of the claimants may bring a civil action
 10 against the adverse claimant, in the district court of the
 11 county in which the lands are situated.

1 SECT. 6. Upon the trial in such action, either party may
 2 give in evidence, the statement mentioned in the fourth sec- C. S. p. 387, Sect. 7.
 3 tion of this chapter, deposited by the other, or by the per- Amended. c 33
 4 son under whom he claims, with the corporate authorities,
 5 or judge holding the title to the lands in controversy there-
 6 in, and the person who made the first claim to, and settle-
 7 ment upon such lands, either in person or by agent, servant
 8 or tenant, or those claiming under him, shall in any such
 9 action, be deemed to have the right to such lands.

1 SECT. 7. In case any controversy between adverse
 2 claimants to such lands is not settled or determined by
 3 agreement, or arbitration, within the time allowed therefor C. S. p. 387, Sect. 9.
 4 as hereinbefore specified, and is not prosecuted within one Amended.
 5 month after the expiration of such time, if the title to such
 6 land is held by such judge, he shall summon the adverse
 7 claimant to appear before him at a time and place mentioned
 8 in the summons, and which place shall be within the county
 9 in which such lands are situated, and make their proof and
 10 allegations in reference to such claims. At the time and
 11 place of the return of such summons, the judge shall, if the
 12 parties appear, proceed to hear their proof and allegations,
 13 and shall thereupon determine in writing the controversy
 14 between them. Upon such hearing the statements of the
 15 parties respectively, deposited with such judge, as required
 16 by the third section of this chapter, shall stand for their
 17 pleadings, and either party may use in evidence the state-
 18 ment made by the other, or by the person under whom he
 19 claims. The evidence of the witnesses sworn upon such
 20 trial shall be reduced to writing, and any witness who shall,
 21 upon such hearing, wilfully and knowingly testify falsely,
 22 shall be deemed guilty of perjury. Any such judge, or any
 23 justice of the peace may issue subpoenas to compel the at-
 24 tendance of witnesses upon such hearing, and any person
 25 served with such subpoena and failing to appear, shall be
 26 deemed guilty of contempt of the said judge, and may be
 27 attached to answer such contempt and to testify in the case.
 28 There shall be no postponement in the hearing of such case
 29 except for cause. The summons issued by the judge, and
 30 all subpoenas issued in such cases shall be directed and serv-
 31 ed in the same manner as in civil actions, and the fees of
 32 officers and witnesses in such cases shall be the same as for
 33 the like services in civil actions in courts of record. Either
 34 party in any such case may appeal from the determination
 35 of such judge therein, to the supreme court in the same man-
 36 ner that a party may appeal from a judgment in a civil ac-
 37 tion in a district court. The judge shall make return to
 38 such appeal, and such return shall consist of the statements
 39 standing for the pleadings in the case, the evidence and the
 40 determination of the judge in writing. In case any party

41 lawfully summoned to appear before such judge fails to ap-
 42 pear at the time and place mentioned in the summons, he
 43 shall be deemed to have waived and relinquished all right,
 44 title, and interest and estate in the land so in controversy,
 45 and each and every piece, parcel and share thereof, and
 46 shall be forever barred the right of asserting or claiming
 47 any right, title, interest or estate therein.

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 C. S. p. 388, Sect. 10.
 Amended.

1 SECT. 8. If in a case mentioned in the preceding section
 2 the title to any such land is held by the corporate authori-
 3 ties of any town, such corporate authorities may bring an
 4 action in the district court of the county in which the lands
 5 in controversy are situated, against the adverse claimants
 6 thereto, to settle and determine such controversy. The
 7 complaint in such case shall be in the nature of a bill of in-
 8 terpleader, and shall set forth a description of the lands thus
 9 claimed by adverse claimants, and the character and extent
 10 of the right, interest or estate therein, claimed by each, as
 11 the same appears by the statements deposited with such
 12 authorities pursuant to section three of this chapter, and
 13 shall pray that the several adverse claimants may be requir-
 14 ed to appear in such court and prosecute their claims or be
 15 forever barred thereof. Any party to such action who fails
 16 to appear and answer such complaint, and thus prosecute
 17 his claim to the land described therein, pursuant to the
 18 summons in such case and the practice of the district court,
 19 shall be forever barred of the right to assert any claim or
 20 title to such lands adverse to the other claimants, elsewhere
 21 or in any court whatsoever. If the adverse claimants to
 22 the lands described in the complaint appear, they shall re-
 23 spectively answer such complaint, and either disclaim any
 24 right, title, interest or estate in the land therein described,
 25 or set forth the nature, character and extent of the title, in-
 26 terest or estate which they respectively claim therein.

C. S. p. 389, Sect. 11.

1 SECT. 9. As soon as may be, after the expiration of sixty
 2 days from the first publication of the notice mentioned in
 3 the third section of this chapter, the corporate authorities,
 4 or judge, holding the title to the lands described in such
 5 notice, shall make a true statement in writing containing a
 6 true account of moneys by him or them expended in the ac-
 7 quisition of the title and the administration or execution of
 8 the trust to that time, including all moneys paid by him or
 9 them for the purchase of such lands, all necessary traveling
 10 expenses, all moneys paid for posting and publishing such
 11 notices, and for proof thereof, and for all other necessary
 12 and proper expenses incident to such trust, and also a true
 13 account of his or their charges for time and services em-
 14 ployed in the business of such trust to that time. The
 15 whole amount of such account for moneys and reasonable

16 charges for compensation, shall be a charge upon the lands
 17 so held in trust in favor of the trustee, and shall be paid by
 18 the several claimants entitled to such lands, in proportion
 19 to the several quantities or shares thereof to which they are
 20 respectively entitled.

1 SECT. 10. Before the corporate authorities, or judge
 2 holding any such lands in trust as aforesaid, shall be re-
 3 quired to execute, acknowledge, or deliver any deed of C. S. P. 389, Sect. 12. **e 33**
 4 conveyance thereof, or of any lot, block, parcel, or share
 5 thereof, as hereinbefore mentioned, to any person claiming
 6 to be entitled to such deed, such person shall pay or tender
 7 to him or them the sum of money chargeable upon the part
 8 thereof to be conveyed by such deed, according to the
 9 statement or account mentioned in the ninth section of this
 10 chapter, the amount to be determined by the proportion
 11 which the quantity of the land to be described in such deed
 12 bears to the whole quantity of the land of which it is a part,
 13 compared with the whole amount thus charged upon the
 14 whole quantity of land, together with interest on each of
 15 the money items of such account at the rate of twelve per
 16 centum per annum from the time when the same accrued,
 17 and also such further sums as are a reasonable compensa-
 18 tion for preparing, executing, and acknowledging such
 19 deed, and the fees of the officers taking the acknowledg-
 20 ment thereof.

1 SECT. 11. After the expiration of sixty days from the
 2 time of the first publication of the notice mentioned in the
 3 third section of this chapter, the corporate authorities, or C. S. P. 389, Sect. 13.
 4 judge, holding the title to the lands described therein, shall
 5 upon a reasonable demand or request, and upon the pay-
 6 ment or tender to him or them of the moneys mentioned in
 7 the preceding section, execute, acknowledge and deliver to
 8 each and every claimant, association or company of claim-
 9 ants of such lands; or of any lot, block, parcel or share
 10 thereof, a deed of conveyance thereof, as prescribed in the
 11 second section of this chapter, and according to the state-
 12 ment made and deposited by him or them pursuant to the
 13 third section: *provided, however,* that no such deed of
 14 conveyance shall be executed, acknowledged or deliv-
 15 ered for any part, lot, block, or share of such lands, to
 16 which there are adverse or contesting claimants, until the
 17 controversy thereon is settled or determined in the manner
 18 hereinbefore prescribed; and whenever any such contro-
 19 versy is so settled or determined, the said corporate au-
 20 thorities, or judge shall, upon the like demand or request,
 21 and the like payment or tender, and by the like deed of
 22 conveyance, convey the land or interest, or share therein,
 23 the right to which has been thus ascertained, to the person
 24 thereby determined to be entitled to the same.

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C. S. p. 390, Sect. 15.

1 SECT. 12. In case any judge who enters any such lands
 2 under the provisions of the said act of congress, and thus
 3 becomes the sole trustee thereof, is possessed of, or entitled
 4 to the same, or any part, lot, block, or share thereof, ac-
 5 cording to, and by virtue of the provisions of this chapter,
 6 and his claim or right is not claimed adversely to him by
 7 any person, he shall be seized and possessed of the title
 8 thereto, and estate therein, to his own use in fee simple,
 9 absolute, free, and discharged of such trust, and no con-
 10 veyance other than the patent of the lands including the
 11 same, shall be necessary to perfect his absolute title there-
 12 to. In case any such land or interest or share in such land
 13 so claimed by such judge, is claimed by any other person,
 14 adversely to him, the conflicting claims between him and
 15 such other person shall be adjusted or determined by set-
 16 tlement, arbitration or action as hereinbefore prescribed,
 17 and in case of action, the issues therein shall be tried before
 18 some other judge who is disinterested.

C. S. p. 390, Sect. 16.

1 SECT. 13. For the purpose of determining the rights
 2 of adverse claimants to any land so entered, the corporate
 3 authorities, or judge hereinbefore mentioned, shall be deemed
 4 to possess and hold the title to said lands in trust, from the
 5 time of the entry thereof.

C. S. p. 390, Sect. 17.

1 SECT. 14. The costs in the actions mentioned in this
 2 chapter, and in proceedings before the judge as aforesaid,
 3 shall be regulated and recoverable as in other civil actions.

C. S. p. 390, Sect. 19.

1 SECT. 15. Every person in whom the title to any lands
 2 shall be declared to be vested, under and by the provisions
 3 of this chapter, shall reconvey, by good and efficient con-
 4 veyance, to any person claiming by, through or under him,
 5 pursuant to any contract or agreement made with such per-
 6 son, upon a reasonable demand therefor, and upon the pay-
 7 ment to said person, of any moneys that may be due or
 8 unpaid to him from the person making such demand, and
 9 in case of refusal so to convey, said contract or agreement
 10 may be enforced by action against said person, according
 11 to law.

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1 SECT. 16. The successor in office of any judge entering
 2 lands under the provisions of this chapter shall, when the
 3 trust has not been fully executed, succeed to said trust and
 4 have authority to execute the same as fully as his predeces-
 5 sor might have done while in office.