

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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Part II. Property Rights and Domestic Relations

CHAPTER 59

Estates in Real Property

8032. How divided.

Life tenant of property subject to mortgage must keep down the interest, and on redemption after foreclosure holds for the joint benefit of himself and the remainderman, the latter being required to contribute his share of amount necessary to redeem. 171M182, 213NW736.

Amount remainderman must contribute on redemption by life tenant after mortgage foreclosure. 171M182, 213NW736.

Where remainderman participated in transaction which wrongfully disabled life tenant from redeeming from mechanic's lien foreclosure, redemption by one to whom they had given a sham mortgage was in effect redemption by remainderman and an annulment of the foreclosure. 173M128, 216NW798.

Equity will not take jurisdiction at instance of life tenant and sell property merely because reinvested proceeds would produce a larger net income. 175M531, 221NW906.

8033. Estates in fee simple.

Royalty tax on lease of mineral lands. 172M263, 271, 273, 215NW71, 180, 181.

8036. Freeholds—Chattels real—Chattel interests.

Royalty tax on lease of mineral lands. 172M263, 271, 273, 215NW71, 180, 181.

8041. Remainders defined.

Liability for improvements made by life tenant. 180M151, 230NW634.

8044. Suspension of power of alienation.

Power of alienation was not unlawfully suspended by a provision in a contract for sale of land that no assignment should be valid unless approved in writing by vendors. 175M502, 221NW871.

8062. Expectant estates protected.

Where a mortgagee takes the legal title to the mortgaged land a merger will not be held to take place if such was not the intent and would manifestly be against his interest. *Hartford A. & I. Co. v. F.*, (CCA8), 59F(2d) 950. See Dun. Dig. 6273.

8074. Estates in common.

Deed to two persons "or the survivor of either," held to create joint tenancy, and survivor became sole owner in fee. 181M8, 231NW401.

Purchase of bonds by husband and wife, held to create an estate in joint tenancy. 181M128, 231NW794.

CHAPTER 59A

Property of Absentees

8080-1. Management and disposition of property.

This act provides a cumulative proceeding and is not a bar to administration by probate court upon the estate of one absent for seven years. 175M493, 221NW876.

8080-13. Same—Distribution of balance.

175M493, 221NW876; note under §8080-1.

CHAPTER 60

Uses and Trusts

8081. Uses and trusts abolished.

Trusts in both real and personal property are abolished except as authorized by statute. 171M237, 213NW893.

Where the trust instrument vests title in the trustee and appropriates the property to the purpose of the trust and nothing remains to be done by the grantor, an "executed trust" is created. 171M237, 213NW893.

An executory trust requires a consideration; an executed trust does not. 171M237, 213NW893.

The beneficiaries of a trust must be certain or capable of being made certain. Where they are limited to those who furnished uncompensated financial aid to the grantor for a specified purpose, they are capable of being made certain. 171M237, 213NW893.

A beneficiary must comply with the conditions prescribed by the trust instrument to acquire any rights under it. 171M237, 213NW893.

Certain persons held not beneficiaries of trust created for persons aiding a corporation. 171M237, 213NW893.

Property held in trust may be attached, and stockholder's liability may be enforced against it. 172M83, 214NW771.

Taxes on unproductive property held in trust for a life beneficiary may be charged to the corpus of the estate where the trustee under discretionary power holds such property for a more advantageous market. *Moore's Will*, 185M342, 241NW63. See Dun. Dig. 3170(50).

8083. Who deemed to have legal estate in lands.

The interest of a daughter under a testamentary trust devising real and personal property to a trustee with power to sell or mortgage and to pay the income to the daughter for life, and for a shorter period under certain contingencies, held, not reachable by the daughter's creditors. 181M289, 232NW337. See Dun. Dig. 9928.

8085. Limitation of preceding sections.

One may contract with another to give him his property at his death, and if he fails to do so, and the circumstances are such that compensation cannot be made justly in money, an action in the nature of one of specific performance may be maintained and the property

vested in the promisee or charged in his favor with a trust. *Simonson v. M.*, 183M525, 237NW413. See Dun. Dig. 8789a(21).

8086. Grant to one for money paid by another.

Even if money used by son to complete purchase of property was a gift from the father, still title vested in the father where property was conveyed to him at the son's request. 175M549, 221NW908.

The evidence compels a finding that a thirty-year lease and a subsequent modification thereof, taken by the promoter of a bank to be organized, was not adopted by the bank occupying the premises leased, improving the same, and paying the rent; for the covenants contained in the lease to be performed by the lessee were such that the bank could not lawfully assume them. *Veigel v. O.T.*, 183M407, 236NW710. See Dun. Dig. 2114, 2114a, 2116.

That a pastor may have paid the consideration for land conveyed to the trustees of a church and their successors in office does not create a trust in his favor. *Board of Christian Service v. T.*, 183M485, 237NW181. See Dun. Dig. 9896.

8090. Purposes of express trust.— * * * * *

6. For the beneficial interests of any person or persons, whether such trust embraces real or personal property or both, when the trust is fully expressed and clearly defined on the face of the instrument creating it, provided that the trust shall not continue for a period longer than the life or lives of specified persons in being at the time of its creation, and for twenty-one years after the death of the survivor of them, and that the free alienation of the legal estate by the trustee is not suspended for a period exceeding the limit prescribed in chapter 59. (As amended Mar. 28, 1929, c. 110; Mar. 18, 1931, c. 65, §1.)

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