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CHAPTER 27.

BETTERMENTS

**SECTION 27‑27‑10.** Recovery for improvements made in good faith.

After final judgment in favor of the plaintiff in an action to recover lands and tenements, if the defendant has purchased the lands and tenements recovered in such action or taken a lease thereof or those under whom he holds have purchased a title to such lands and tenements or taken a lease thereof, supposing at the time of such purchase such title to be good in fee or such lease to convey and secure the title and interest therein expressed, such defendant shall be entitled to recover of the plaintiff in such action the full value of all improvements made upon such land by such defendant or those under whom he claims, in the manner provided in this chapter.

**SECTION 27‑27‑20.** Determining value of improvements.

The sum which such land shall be found at the time of the rendition of such judgment to be worth more, in consequence of improvements so made, than it would have been had no such improvements or betterments been made shall be deemed to be the value of such improvement or betterments.

**SECTION 27‑27‑30.** Proceedings subsequent to judgment to recover value of improvements.

The defendant in such action shall, within forty‑eight hours after such judgment or during the term of the court in which it shall be rendered, file in the office of the clerk of the court in which such judgment was rendered a complaint against the plaintiff for so much money as the lands and tenements are so made better. The filing of such complaint shall be sufficient notice to the defendant in such complaint to appear and defend against it. All subsequent proceedings shall be had in accordance with the practice prescribed in this Code for actions generally.

**SECTION 27‑27‑40.** Stay of judgment in first action; special verdict for betterments.

The court, on the entry of such action, shall stay all proceedings upon the judgment obtained in the prior action, except the recovery of such lands, until the sale of the lands recovered as provided in Section 27‑27‑60. The final judgment shall be upon a special verdict by a jury, under the direction of the court, stating the value of the lands and tenements without the improvements put thereon in good faith by the defendant in the prior action and the value thereof with improvements. The defendant in the prior action shall be entitled for such betterments to a verdict for the value thereof, as of the date when the lands were recovered from him and interest on such verdict from such date.

**SECTION 27‑27‑50.** Judgment deemed equivalent to attachment; priority of liens.

The lands and tenements so recovered shall be held to respond to such judgment for betterments in the same manner and for the same time as if they had been attached on mesne process and such judgment for betterments shall be a lien on such land in preference to all other liens.

**SECTION 27‑27‑60.** Sale of lands; division of proceeds; payment in lieu of sale.

When final judgment shall be rendered as provided in Section 27‑27‑40 the court shall direct a sale of the land recovered in ejectment on the following terms: That out of the proceeds of sale the plaintiff in ejectment or his legal representative be paid the amount ascertained as the value of his land without improvements put thereon in good faith by the defendant and the surplus, if any, be paid to the occupying claimant or his legal representative. But this section shall not apply when the plaintiff in ejectment or his legal representative shall, within sixty days after the aforesaid special verdict, pay into the office of the clerk of the court, for the defendant, the value of the betterments as so found in such special verdict.

**SECTION 27‑27‑70.** Alternative procedure by alleging value of improvement in answer.

In any action for the recovery of lands and tenements, whether such action be denominated legal or equitable, the defendant who may have made improvements or betterments on such land, believing at the time he made such improvements or betterments that his title thereto was good in fee, may set up in his answer a claim against the plaintiff for so much money as the land has been increased in value in consequence of the improvements so made and the defendant may also set up a claim against the plaintiff for so much money as the land has been increased in value in consequence of improvements or betterments made by any person under or through whom he claims, if it be shown that the defendant actually believed he was taking a good title in fee simple thereto at the time of the alleged taking thereof.

**SECTION 27‑27‑80.** Assessment of value of improvement; charge against land.

If the verdict or decree shall be for the plaintiff in such action the jury or judge who may render it may at the same time render a verdict or decree for the defendant for so much money as the lands and tenements are so made better, after deducting the amount of damages, if any, recovered by the plaintiff in such action, and the lands and tenements as recovered shall be held to respond to such judgment for the defendant. But execution on such judgment shall issue only against such lands and tenements so recovered by the plaintiff in such action and shall not in any such case issue against the goods and chattels or other lands of the plaintiff.

**SECTION 27‑27‑90.** Recovery for mesne profits.

The plaintiff in an action for the recovery of lands and tenements shall recover nothing for the mesne profits of the land, except on such improvements as are made by him or those under whom he claims.

**SECTION 27‑27‑100.** Chapter not applicable in certain cases.

The provisions of this chapter shall not extend to any person who has entered on land by virtue of any contract made with the legal owner of such land, unless it shall appear, on the trial of the action, that such owner has neglected to fulfill such contract of his part, in which case such person in possession shall be entitled to all the privileges in this chapter provided for those who entered upon land under supposed title and the same proceedings shall be had and the land shall be held in the same manner as herein provided for such cases.