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 or acquired the lands and tenements recovered in such action or taken a lease thereof or those under whom he holds have purchased or acquired a title to such lands and tenements or taken a lease thereof, supposing at the time of such purchase or acquisition 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.

HISTORY: 1962 Code Section 57‑401; 1952 Code Section 57‑401; 1942 Code Section 8831; 1932 Code Section 8831; Civ. C. ‘22 Section 5296; Civ. C. ‘12 Section 3526; Civ. C. ‘02 Section 2440; G. S. 1835; R. S. 1952; 1870 (14) 313; 2013 Act No. 71, Section 1, eff June 13, 2013.

Effect of Amendment

The 2013 amendment inserted “or acquired” following “purchased” in two places and “or acquisition” following “purchase”.

CROSS REFERENCES

Alternative procedure by alleging value of improvements in answer, see Section 27‑27‑70.

Library References

Ejectment 142.

Improvements 4(1).

Westlaw Topic Nos. 142, 206.

C.J.S. Ejectment Section 156.

RESEARCH REFERENCES

Encyclopedias

75 Am. Jur. Proof of Facts 3d 1, Mistaken Improver’s Recovery of Compensation for Improvements Made to Land Owned by Another.

108 Am. Jur. Proof of Facts 3d 449, Landlord’s Right to Evict Tenants or Other Occupants from Residential Property.

S.C. Jur. Adjoining Landowners Section 17, Cause of Action for Improvements Made on Adjoining Land.

S.C. Jur. Implied Contracts Section 25, Equity or Law.

S.C. Jur. Improvements Section 2, Background.

S.C. Jur. Improvements Section 6, The Betterment Laws.

Forms

Am. Jur. Pl. & Pr. Forms Improvements Section 1 , Introductory Comments.

Treatises and Practice Aids

44 Causes of Action 2d 447, Cause of Action by Residential Landlord to Evict Tenants or Other Occupants.

Restatement (2d) of Property, Don. Trans. Section 31.4, Gift of Donor’s Interest in Land.

LAW REVIEW AND JOURNAL COMMENTARIES

The Rights and Remedies of One Who Improves the Land of Another Under the South Carolina Betterment Statute. 17 S.C. L. Rev. 397.

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Validity 1

1. Validity

This section is not unconstitutional. Lumb v. Pinckney (S.C. 1884) 21 S.C. 471. Improvements 2

2. In general

Applied in Rabb v Flenniken (1890) 32 SC 189, 10 SE 943. McKnight v Cooper (1887) 27 SC 92, 2 SE 842.

This section applies even to such improvements as were made after knowledge of title to another, provided the recoverer or his grantors supposed at the time of purchase that the title was good in fee. Bethea v Allen (1915) 101 SC 350, 85 SE 903. Templeton v Lowry (1885) 22 SC 389.

Additional related cases, concerning accounting as to betterments and rents between cotenants, see Vaughan v Langford (1908) 81 SC 282, 62 SE 316. Shute v Shute (1909) 82 SC 264, 64 SE 145. Jacobs v Bush (1882) 17 SC 594.

The betterment statute was originally adopted in this State in 1870. Citizens and Southern Nat. Bank, Atlanta, Ga. v. Modern Homes Const. Co. (S.C. 1966) 248 S.C. 130, 149 S.E.2d 326.

Apt allegations and proof as to belief that title was good in fee are necessary to authorize the award of any sum for betterments. Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729. Taxation 3181

Cited in Walsh v. Evans (S.C. 1919) 112 S.C. 131, 99 S.E. 546.

Under this section, it is incumbent on plaintiff who has been ousted of possession of land to show not merely the value of his improvements, but also to present evidence from which the jury can find a special verdict, stating the value of the land without the improvements and its value with the improvements. Evidence in an action under this section, after partition decree has been rendered, tending to show that improvements of some considerable value have been made, will not warrant sending the case to the jury. Hall v. Boatwright (S.C. 1900) 58 S.C. 544, 36 S.E. 1001, 79 Am.St.Rep. 864. Partition 97

Sufficiency of allegations, see Tumbleston v. Rumph (S.C. 1895) 43 S.C. 275, 21 S.E. 84.

Supposition that title was good in fee is question of fact. Templeton v. Lowry (S.C. 1885) 22 S.C. 389.

3. Nature and availability of remedy; requirement of strict compliance

The provision of this section prescribing that recovery shall be had in the manner hereinafter provided must be strictly complied with. Bethea v Allen (1915) 101 SC 350, 85 SE 903. Howard v Kirton (1928) 144 SC 89, 142 SE 39.

This section recognizes an equitable right and gives a remedy for its enforcement where none existed before. Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84. Hall v Boatwright (1900) 58 SC 544, 36 SE 1001.

This section was not intended to provide the only remedy by which the rights of one improving the land of another may be protected. The statute does not preclude suits not within its terms and was not intended to affect the jurisdiction of equity in other cases. Citizens and Southern Nat. Bank, Atlanta, Ga. v. Modern Homes Const. Co. (S.C. 1966) 248 S.C. 130, 149 S.E.2d 326.

Right of one dispossessed of realty to the value of betterments is purely statutory, and remedy is available only upon a following of the statutes and upon proof of facts encompassed within the terms of them. Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729. Taxation 3181

Where a new right is created by a statute which also prescribes the remedy or method of enforcing such right, the method prescribed by the statute is exclusive. Bethea v. Allen (S.C. 1915) 101 S.C. 350, 85 S.E. 903. Action 35

4. Purpose of section; construction with another statute

This section and Section 27‑27‑70, in regard to betterments, were not intended simply as affirmations of the doctrine prevailing in cases of purchasers for valuable consideration without notice, but for softening the asperities of the law and affording relief where none otherwise existed. Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84 (1895). Dunham v Davis (1957) 232 SC 175, 101 SE2d 278.

In Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84, McIver, C. J., in his dissenting opinion said: “It seems to me that the provisions of this section and Section 27‑27‑70 are so utterly at variance as to render them inconsistent with each other, at least as far as they relate to the conditions upon which a claim for betterments can be maintained and the manner in which such claim may be set up or asserted.” Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84. Reaves v Stone (1957) 231 SC 628, 99 SE2d 729.

This chapter recognizes an equitable right and defines “equitable compensation” as the increase or enhancement in value resulting from the improvements. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

What is now Section 27‑27‑70 did not supersede this section, but merely supplemented it. Tumbleston v. Rumph (S.C. 1895) 43 S.C. 275, 21 S.E. 84.

5. Measure of recovery

Defendant was entitled to recover for improvements where record contained evidence to satisfy requirements that improvements had increased value of land; entitlement under statute is established by showing value of land prior to improvements, value of land after improvements, and amount land increased in value because of improvements. Butler v. Lindsey (S.C.App. 1987) 293 S.C. 466, 361 S.E.2d 621.

The increase or enhancement in value in consequence of improvements is the measure of the equitable compensation. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

Defendant is entitled to compensation only for “improvements” and not for any increase in value not attributable to additions to the property. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

This chapter does not attempt to give the improving claimant the costs of the improvements, but only such amount as they are found to have increased the value of the premises, and this refers to the value at the time of the recovery of the premises by the true owner. Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729.

6. Meaning of terms; “full value”

In a proceeding by defendant in ejectment for the value of betterments, the “full value” to which he is entitled under this section means the value at the time of final judgment in ejectment under what is now Section 27‑27‑20. Howard v. Kirton (S.C. 1928) 144 S.C. 89, 142 S.E. 39.

7. Meaning of terms; “final judgment”

Final judgment does not mean entry of formal judgment, but final determination of rights of parties by verdict. Godfrey v. Fielding (S.C. 1884) 21 S.C. 313.

“Final judgment” means the judgment in the circuit court, even in cases of appeal, and it is too late to bring an action after remittitur of Supreme Court. Garrison v. Dougherty (S.C. 1883) 18 S.C. 486.

8. Meaning of terms; “improvements”

Improvements must be made bona fide. Gadsen v Desportes (1893) 39 SC 131, 17 SE 706. C. Aultman & Co. v Utsey (1894) 41 SC 304, 19 SE 617. Salinas v C. Aultman & Co. (1895) 45 SC 283, 22 SE 889.

The phrase “permanent improvements” means something done to or put upon the land, which the occupant cannot remove or carry away with him, either because it has become physically impossible to separate it from the land or because, in contemplation of law, it has been annexed to the soil and is therefore to be considered a part of the freehold. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278. Ejectment 141

9. Application in particular cases—In general

This section applies only to actions for recovery of land and not to actions for partition between cotenants, where equity affords a remedy for improvements to the common property. Hall v Boatwright (1900) 58 SC 544, 36 SE 1001. McGee v Hall (1888) 28 SC 562, 6 SE 566.

This section applies to improvements made by those under whom the plaintiff claims. Salinas v C. Aultman & Co. (1895) 45 SC 283, 22 SE 889. C. Aultman & Co. v Utsey (1894) 41 SC 304, 19 SE 617. McKnight v Cooper (1887) 27 SC 92, 2 SE 842.

10. —— Foreclosure proceedings, application in particular cases

This section does not give a mortgagee buying on foreclosure a claim for improvements made by his mortgagor before giving the mortgage, unless it is by separate action. C. Aultman & Co. v. Utsey (S.C. 1894) 41 S.C. 304, 19 S.E. 617.

This section applies only to actions for recovery of land and not to foreclosure suits. Lessly v. Bowie (S.C. 1887) 27 S.C. 193, 3 S.E. 199.

11. —— Soil building; ordinary tillage, application in particular cases

Soil building is an improvement. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

Preparation of land for farming in a particular year comes within the ordinary course of tillage, and is not an improvement. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

12. —— Increase in value of timber without development work, application in particular cases

Where defendant had done nothing to timberlands in the nature of fertilization, setting out young trees, thinning out undesirable growth of scrub timber to promote the development of the remainder, construction of fences or anything which could be considered as an addition to the timberlands, he was not entitled to compensation even though timber had greatly increased in value. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278. Ejectment 141

13. —— Improvements on homestead property; interest, application in particular cases

One buying land and believing that he has acquired good title has a lien thereon under this section for improvements, though a homestead had been assigned to the rightful owner thereof, as SC Const Art 3, Section 28 (prior to the 1981 amendment) provided that no property shall be exempt from sale for payment of improvements thereon. Wilson v. Counts (S.C. 1898) 52 S.C. 218, 29 S.E. 649. Homestead 128

Parties in possession should not be allowed improvements and interest, too, during time of possession. Boykin v. Ancrum (S.C. 1888) 28 S.C. 486, 6 S.E. 305, 13 Am.St.Rep. 698.

**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.

HISTORY: 1962 Code Section 57‑402; 1952 Code Section 57‑402; 1942 Code Section 8832; 1932 Code Section 8832; Civ. C. ‘22 Section 5297; Civ. C. ‘12 Section 3527; Civ. C. ‘02 Section 2441; G. S. 1836; R. S. 1953.

Library References

Ejectment 145.

Improvements 4(5).

Westlaw Topic Nos. 142, 206.

C.J.S. Ejectment Section 156.

RESEARCH REFERENCES

Encyclopedias

75 Am. Jur. Proof of Facts 3d 1, Mistaken Improver’s Recovery of Compensation for Improvements Made to Land Owned by Another.

S.C. Jur. Adjoining Landowners Section 18, Valuation of Improvements.

LAW REVIEW AND JOURNAL COMMENTARIES

The Rights and Remedies of One Who Improves the Land of Another Under the South Carolina Betterment Statute. 17 S.C. L. Rev. 397.

NOTES OF DECISIONS

In general 1

1. In general

Defendant was entitled to recover for improvements where record contained evidence to satisfy requirements that improvements had increased value of land; entitlement under statute is established by showing value of land prior to improvements, value of land after improvements, and amount land increased in value because of improvements. Butler v. Lindsey (S.C.App. 1987) 293 S.C. 466, 361 S.E.2d 621.

Enhancement in value is measure of compensation under this section and not cost of improvements. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

Cost of improvements may be a measure of enhancement in value. Dunham v. Davis (S.C. 1957) 232 S.C. 175, 101 S.E.2d 278.

In an action for betterments the trial judge must decide what the verdict means, considering all matters occurring at trial. Howard v. Kirton (S.C. 1928) 144 S.C. 89, 142 S.E. 39. Trial 343

Cited in Tumbleston v. Rumph (S.C. 1895) 43 S.C. 275, 21 S.E. 84.

**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.

HISTORY: 1962 Code Section 57‑403; 1952 Code Section 57‑403; 1942 Code Section 8833; 1932 Code Section 8833; Civ. C. ‘22 Section 5298; Civ. C. ‘12 Section 3528; Civ. C. ‘02 Section 2442; G. S. 1837; R. S. 1954.

Library References

Ejectment 148.

Improvements 4(6).

Westlaw Topic Nos. 142, 206.

C.J.S. Ejectment Sections 156 to 157.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 4, Definitions.

S.C. Jur. Improvements Section 7, Overview.

S.C. Jur. Improvements Section 12, Claims Procedure for an Action on Improvements.

LAW REVIEW AND JOURNAL COMMENTARIES

The Rights and Remedies of One Who Improves the Land of Another Under the South Carolina Betterment Statute. 17 S.C. L. Rev. 397.

NOTES OF DECISIONS

In general 1

1. In general

Where possessor of land defaulted in an ejection suit, and did not bring counterclaim for betterments or suit for betterments within 48 hours after the default judgment, a subsequent suit for the value of betterments was barred. Warren v. Warren (S.C. 1977) 268 S.C. 200, 232 S.E.2d 731.

Cited in Howard v. Kirton (S.C. 1928) 144 S.C. 89, 142 S.E. 39.

Applied in Tumbleston v. Rumph (S.C. 1895) 43 S.C. 275, 21 S.E. 84.

A defendant by answer having claimed improvements, but alleging only that he believed he had good title in fee at the time of his purchase, was allowed to amend by averring also a belief of good title at time the improvements were made. McKnight v. Cooper (S.C. 1887) 27 S.C. 92, 2 S.E. 842.

**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.

HISTORY: 1962 Code Section 57‑404; 1952 Code Section 57‑404; 1942 Code Section 8834; 1932 Code Section 8834; Civ. C. ‘22 Section 5299; Civ. C. ‘12 Section 3529; Civ. C. ‘02 Section 2443; G. S. 1838; R. S. 1955; 1885 (19) 432.

Library References

Judgment 852(1).

Westlaw Topic No. 228.

C.J.S. Judgments Section 636.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 12, Claims Procedure for an Action on Improvements.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84. Howard v Kirton (1928) 144 SC 89, 142 SE 39.

Refusal to stay judgment pending action for improvements is a denial of substantial right and appealable. Dill v. Moon (S.C. 1880) 14 S.C. 338.

**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.

HISTORY: 1962 Code Section 57‑405; 1952 Code Section 57‑405; 1942 Code Sections 8834, 8835; 1932 Code Sections 8834, 8835; Civ. C. ‘22 Sections 5299, 5300; Civ. C. ‘12 Sections 3529, 3530; Civ. C. ‘02 Sections 2443, 2444; G. S. 1838, 1839; R. S. 1955, 1956; 1885 (19) 432.

CROSS REFERENCES

Attachment generally, see Sections 15‑19‑10 et seq.

Library References

Ejectment 144.

Improvements 4(4).

Westlaw Topic Nos. 142, 206.

C.J.S. Ejectment Section 156.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 13, Judgment and Lien.

Treatises and Practice Aids

Restatement (2d) of Property, Don. Trans. Section 31.4, Gift of Donor’s Interest in Land.

**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.

HISTORY: 1962 Code Section 57‑406; 1952 Code Section 57‑406; 1942 Code Section 8835; 1932 Code Section 8835; Civ. C. ‘22 Section 5300; Civ. C. ‘12 Section 3530; Civ. C. ‘02 Section 2444; G. S. 1839; R. S. 1956; 1885 (19) 432.

Library References

Ejectment 148.

Westlaw Topic No. 142.

C.J.S. Ejectment Sections 156 to 157.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 13, Judgment and Lien.

NOTES OF DECISIONS

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1. In general

Cited in Salinas v C. Aultman & Co. (1895) 45 SC 283, 22 SE 889. Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84.

Applied in C. Aultman & Co. v Utsey (1894) 41 SC 304, 19 SE 617. Jacobs v Bush (1882) 17 SC 594.

In the dissenting opinion in Howard v Kirton (1928) 144 SC 89, 142 SE 39, Cothran, J., says: “There is a direct conflict between this section, relating to the sale, and other sections. As Code 1962 Section 57‑401 [Section 27‑27‑10] confers the right to betterments, Code 1962 Sections 57‑404 [Section 27‑27‑40] and 57‑405 [Section 27‑27‑50] provide for the judgment and lien, and this section is directory only, I am inclined to think that this section must give way.” Howard v. Kirton (S.C. 1928) 144 S.C. 89, 142 S.E. 39.

**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.

HISTORY: 1962 Code Section 57‑407; 1952 Code Section 57‑407; 1942 Code Section 8836; 1932 Code Section 8836; Civ. C. ‘22 Section 5301; Civ. C. ‘12 Section 3531; Civ. C. ‘02 Section 2445; R. S. 1957; 1885 (19) 343; 1917 (30) 392.

Library References

Ejectment 146.

Westlaw Topic No. 142.

C.J.S. Ejectment Sections 156 to 157.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 6, The Betterment Laws.

S.C. Jur. Improvements Section 7, Overview.

S.C. Jur. Improvements Section 12, Claims Procedure for an Action on Improvements.

NOTES OF DECISIONS

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Relation to Section 27‑27‑10 2

1. In general

Where possessor of land defaulted in an ejection suit, and did not bring counterclaim for betterments or suit for betterments within 48 hours after the default judgment, a subsequent suit for the value of betterments was barred. Warren v. Warren (S.C. 1977) 268 S.C. 200, 232 S.E.2d 731.

This section permits one, who was in possession of lands under an honest but mistaken belief of ownership, to recover for improvements made by him only where an action at law has been brought by the owner to recover possession. Citizens and Southern Nat. Bank, Atlanta, Ga. v. Modern Homes Const. Co. (S.C. 1966) 248 S.C. 130, 149 S.E.2d 326.

Cited in Shumaker v. Shumaker (S.C. 1959) 234 S.C. 421, 108 S.E.2d 682.

2. Relation to Section 27‑27‑10

This section was intended to supplement the provisions of what is now Section 27‑27‑10 and not to supersede them. See Salinas v C. Aultman & Co. (1895) 45 SC 283, 22 SE 889. Gadsden v Desportes (1893) 39 SC 131, 17 SE 706.

This section was intended to afford relief in such cases as were not covered by what is now Section 27‑27‑10 by providing that the defendant, who may have made improvements on the lands sought to be recovered from him, believing at the time he made such improvements that his title thereto was good in fee, should be allowed to set up in his answer a claim against the plaintiff for so much money as the land was increased in value in consequence of the improvements so made, even where neither the defendant nor those under whom he claims may also have believed at the time of purchase such title to be good in fee. Tumbleston v. Rumph (S.C. 1895) 43 S.C. 275, 21 S.E. 84.

3. Belief in good title

Question of whether improver of land believed he had good title to disputed parcel at time he made improvements is question of fact to be decided by trial judge, and where there was some evidence to sustain implicit finding that occupier believed he had good title at time he made improvements decision was affirmed. Butler v. Lindsey (S.C.App. 1987) 293 S.C. 466, 361 S.E.2d 621. Appeal And Error 991

Claim for betterments in answer must contain allegation of belief of good title, and in order to recover, this must be proved. Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729.

When a house was built on a ten acre tract not in belief that the builder’s title thereto was good in fee, but rather that he did so under the expectancy of inheritance, such builder did not have a lien. Smith v. Hanna (S.C. 1949) 215 S.C. 520, 56 S.E.2d 339.

**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.

HISTORY: 1962 Code Section 57‑408; 1952 Code Section 57‑408; 1942 Code Section 8837; 1932 Code Section 8837; Civ. C. ‘22 Section 5302; Civ. C. ‘12 Section 3532; Civ. C. ‘02 Section 2446; R. S. 1958; 1885 (19) 343.

Library References

Ejectment 144, 145.

Westlaw Topic No. 142.

C.J.S. Ejectment Section 156.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 13, Judgment and Lien.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729.

Cited in Howard v. Kirton (S.C. 1928) 144 S.C. 89, 142 S.E. 39.

**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.

HISTORY: 1962 Code Section 57‑409; 1952 Code Section 57‑409; 1942 Code Section 8838; 1932 Code Section 8838; Civ. C. ‘22 Section 5303; Civ. C. ‘12 Section 3533; Civ. C. ‘02 Section 2447; G. S. 1840; R. S. 1959; 1870 (14) 314.

CROSS REFERENCES

Recovery of real property generally, see Sections 15‑67‑10 et seq.

Library References

Ejectment 127, 139.

Westlaw Topic No. 142.

C.J.S. Ejectment Sections 140 to 143, 149, 156.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Improvements Section 13, Judgment and Lien.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84. Howard v Kirton (1928) 144 SC 89, 142 SE 39.

Applied in Reaves v. Stone (S.C. 1957) 231 S.C. 628, 99 S.E.2d 729.

**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.

HISTORY: 1962 Code Section 57‑410; 1952 Code Section 57‑410; 1942 Code Section 8839; 1932 Code Section 8839; Civ. C. ‘22 Section 5304; Civ. C. ‘12 Section 3534; Civ. C. ‘02 Section 2448; G. S. 1841; R. S. 1960; 1870 (14) 314.

RESEARCH REFERENCES

Encyclopedias

75 Am. Jur. Proof of Facts 3d 1, Mistaken Improver’s Recovery of Compensation for Improvements Made to Land Owned by Another.

S.C. Jur. Adjoining Landowners Section 17, Cause of Action for Improvements Made on Adjoining Land.

S.C. Jur. Implied Contracts Section 25, Equity or Law.

S.C. Jur. Improvements Section 2, Background.

S.C. Jur. Improvements Section 9, Possession and Color of Title.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Tumbleston v Rumph (1895) 43 SC 275, 21 SE 84. Howard v Kirton (1928) 144 SC 89, 142 SE 39.