

CHAPTER 137.

[S. B. No. 55.]

FOR THE PROTECTION OF OCCUPANTS OF LAND WHO HAVE IN GOOD FAITH MADE IMPROVEMENTS AND PAID TAXES THEREON.

AN ACT for the protection of occupants of land who have in good faith made permanent improvements or paid taxes or assessments thereon.

*Be it enacted by the Legislature of the State of Washington:*

Value of taxes or improvements a counter-claim.

SECTION 1. In an action for the recovery of real property upon which permanent improvements have been made or general or special taxes or local assessments have been paid by a defendant, or those under whom he claims, holding in good faith under color or claim of title adversely to the claim of plaintiff, the value of such improvements and the amount of such taxes or assessments with interest thereon from date of payment must be allowed as a counter claim to the defendant.

Setting forth of claim.

SEC. 2. The counter claim shall set forth the value of the land apart from the improvements, and the nature and value of the improvements apart from the land and the amount of said taxes and assessments so paid, and the date of payment. Issues shall be joined and tried as in other actions, and the value of the land and the amount of said taxes and assessments apart from the improvements, and the value of the improvements apart from the land must be specifically found by the verdict of the jury, report of the referee, or findings of the court as the case may be.

Joining of issues for trial.

Plaintiff entitled to recover—how and when.

SEC. 3. If the judgment be in favor of the plaintiff for the recovery of the realty, and of the defendant upon the counter claim, the plaintiff shall be entitled to recover such damages as he may be found to have suffered through the withholding of the premises and waste committed thereupon by the defendant or those under whom he claims, but against this recovery shall be offset protanto the value of the permanent improvements and the amount of said taxes and assessments with interest found as above provided. Should the value

of improvements or taxes or assessments with interest exceed the recovery for damages, the plaintiff, shall, within two months, pay to the defendant the difference between the two sums and upon proof, after notice, to the defendant, that this has been done, the court shall make an order declaring that fact, and that title to the improvements is vested in him. Should the plaintiff fail to make such payment, the defendant may at any time within two months after the time limited for such payment to be made, pay to the plaintiff the value of the land apart from the improvements, and the amount of the damages awarded against him, and he thereupon shall be vested with title to the land, and, after notice to the plaintiff, the court shall make an order reciting the fact and adjudging title to be in him. Should neither party make the payment above provided, within the specified time, they shall be deemed to be tenants in common of the premises, including the improvements, each holding an interest proportionate to the value of his property determined in the manner specified in section two hereof: *Provided*, That the interest of the owner of the improvements shall be the difference between the value of the improvements and the amount of damages recovered against him by the plaintiff.

Procedure, when value exceeds amount recovered.

Failure of plaintiff to make payment.

Tenants in common upon failure to pay.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

Passed the Senate February 19, 1903.

Passed the House March 9, 1903.

Approved by the Governor March 16, 1903.

Repeal.