

CHAPTER 279.

WASTE.

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279.01 Jurisdiction. The circuit courts have jurisdiction of actions for waste and may grant injunctions to stay or prevent waste.

279.02 Who liable. If any guardian or any tenant by the curtesy, tenant in dower, or for a term of life or years, or the assigns of any such tenant shall commit or suffer any waste during their several terms or estates of the houses, gardens, orchards, lands or woods or of any other thing belonging to the tenements so held, without having a lawful license in writing so to do, they shall respectively be liable to an action for such waste.

Note: Gasoline filling station building and equipment held so attached to and used in business conducted on premises as to become part of realty, as regards lessee's right to remove station at end of term. *Northwestern L. & T. Co. v. Topp O. & S. Co.*, 211 W 489, 248 NW 466.

279.03 Tenant liable after granting his estate. In case any such tenant shall let or grant his estate and still retain possession thereof and commit waste the party entitled to the reversion of the tenements may maintain his action for such waste against such tenant.

279.04 Joint tenants, etc., liable. If one joint tenant or tenant in common shall commit waste of the estate held in joint tenancy or in common he shall be subject to an action for such waste at the suit of his cotenant or cotenants.

279.05 Action by heir. An heir, whether of full age or not, after coming into possession of the inheritance, may maintain an action for waste done in the time of his ancestor as well as in his own time unless a recovery shall have been had therefor by the executor or administrator of such ancestor.

279.06 Action by owner of next estate. Such action may be brought by the person having the next immediate estate in fee for life or years in the premises in question or by any person who has the remainder or reversion in fee or for life after an intervening estate for life or years; and each of them shall recover damages according to his estate in the premises.

279.07 Damages. If the plaintiff in such action prevail therein he shall have judgment for double the amount of damages found by the jury.

279.08 Action by purchaser at tax or judicial sale. The purchaser or his assigns holding any certificate of sale of real estate duly issued upon any sale for taxes, or upon execution, or by virtue of a power of sale in a mortgage may have an action to restrain the commission of waste during the period of redemption, and if no redemption shall be made and a deed shall be issued pursuant to such certificate the grantee or his assigns may, in such action or by a subsequent action, recover damages against any person for any waste committed by such person on the premises after such sale. But no person lawfully entitled to the possession of any premises so sold shall be liable to any such action for doing either of the acts authorized in section 279.09.

279.09 When no waste. Any person entitled to the possession of lands sold as mentioned in section 279.08 may, until the expiration of the time given by law for the redemption thereof, use and enjoy the same without being liable to an action of waste therefor, as follows:

(1) He may use and enjoy the premises sold in like manner and for the like purposes in and for which they were used and applied prior to such sale, doing no permanent injury to the freehold.

(2) If the premises sold were buildings, fences or any other erections he may make necessary repairs thereto, but he shall make no alterations in the form or structures thereof so as to impair or lessen their value.

(3) He may use and improve the land so sold in the ordinary course of husbandry or mining, and he shall be entitled to any crop growing thereon at the expiration of the period of redemption.

(4) He may apply any wood or timber on such land to the necessary repairs of any fences, buildings or erections existing thereon at the time of such sale.

(5) If the land sold is actually occupied by such person he may take the necessary fire wood therefrom for the use of himself or family.

279.10 [*Renumbered section 268.02 (2) by 1935 c. 541 s. 117a*]