

TITLE XLIIA.

Real Property Actions.

Revisor's Note: The State Bar sponsored a number of bills relating to real estate in the 1969 session of the Legislature. All passed except Assembly Bill 656, which would have created Chapters 810 to 815, 816 and 818 of the statutes. The new chapters would have constituted a revision of our real estate procedural law.

In anticipation of the passage of Assembly Bill 656, some of the other bills renumbered some existing statutes to fit into the new procedural chapters. These sections are here printed, because they are effective July 1, 1971 under their new numbers. Each section is followed by a note stating its origin.

816.25 Discharge after foreclosure. After a mortgage has been foreclosed by action and the judgment and costs have been paid and satisfaction of the mortgage entered upon the docket, the clerk, on request, shall sign a certificate attesting to such facts, which certificate is entitled to record.

Cross Reference: For redemption from mortgage foreclosure, prior to sale, see 278.13.

Note: This section was renumbered from 235.59 and amended by Chap. 285, laws of 1969, effective July 1, 1971.

818.05 Actions between cotenants. One joint tenant or tenant in common and his executors or administrators may maintain an action for money had and received against his cotenant for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

Note: This section was renumbered from 234.21 by Chap. 284, laws of 1969, effective July 1, 1971.

Rental payments may be due where the conduct of one cotenant results in the ouster of the other. *Heyse v. Heyse*, 47 W (2d) 27, 176 NW (2d) 316.

818.07 Correction of description in conveyance. The circuit court or county court of any county in which a conveyance of real estate has been recorded may make an order correcting the description in such conveyances on proof being made to the satisfaction of the court that such conveyance contains an erroneous description, not intended by the parties thereto; or when the description is ambiguous and does not clearly or fully describe the premises intended to be conveyed, if the grantor therein is dead, a nonresident of the state, a corporation which has ceased to exist or an administrator, executor, guardian, trustee or other person authorized to convey and has been discharged from his trust and the person to whom it was made, his heirs, legal representatives or assigns have been in the quiet, undisturbed and peaceable possession of the premises intended to be conveyed from the date of such conveyance; but this section shall not prevent an action for the reformation of any conveyance, and if in any doubt, the court shall direct such action to be brought.

Note: This section was renumbered from 235.65 by Chap. 285, laws of 1969, effective July 1, 1971.

818.09 Discharge of mortgage or lien by court. The circuit court of any county or the county court of any county having a population of less than 500,000, in which a mortgage, lien or charge is recorded may make an order discharging such mortgage, lien or charge of record on proof being made to the satisfaction of the court that the mortgage, lien or charge has been fully paid or satisfied and that the mortgagee or the owner of the lien or charge or his assignee is a corporation which has ceased to exist or which has no officer or agent in the state of Wisconsin competent to discharge the same of record or that the mortgagee or the owner of the lien or charge or his assignee is a

nonresident of the county where such mortgage, lien or charge is recorded, or is deceased, and in such case, that there is no administrator on his estate under the authority of this state. The register of deeds shall record such order or a copy thereof, certified by the clerk under

the seal of the court, and such record shall have the same effect as the record of discharge by a mortgagee or owner of a lien or charge duly executed and acknowledged.

Note: This section was renumbered from 235.60 by Chap. 285, laws of 1969, effective July 1, 1971.