

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 33

PARTITION

600.3301 Partition of lands; jurisdiction of circuit court; actions equitable in nature.

Sec. 3301. Actions containing claims for the partition of lands may be brought in the circuit courts, including, but not limited to, the matters covered in this chapter. Such actions are equitable in nature.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3304 Partition of lands; joint tenants; tenants in common; applicability of chapter 34.

Sec. 3304. (1) All persons holding lands as joint tenants or, subject to chapter 34, as tenants in common may have those lands partitioned.

(2) Chapter 34 supplements this chapter, and, if an action is governed by chapter 34, it supersedes the provisions of this chapter that are inconsistent with chapter 34.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2024, Act 215, Eff. Apr. 2, 2025.

600.3308 Partition of lands; estate in possession; inapplicable to reversions or remainders.

Sec. 3308. Any person who has an estate in possession in the lands of which partition is sought may maintain a claim for partition of those lands, but a person who has only an estate in reversion or remainder in the lands may not maintain a claim for their partition.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3312 Mineral rights.

Sec. 3312. Any person who has an estate in possession of any ores, minerals, or metals in lands may maintain a claim for partition. But the claim for partition may be brought only against those persons who have estates in possession of the ores, minerals, and metals.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3316 Undivided interest in estate in possession or in expectancy deemed fee simple.

Sec. 3316. Any person who owns an undivided interest, however acquired, in all of the estates in possession and in expectancy in the land of which partition is sought is deemed to have an estate in fee simple, absolute in possession, in the land to the extent of the least share which he has in any of the estates and is entitled to maintain a claim for partition.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3320 Guardian; authority to agree to division; report; infants; infant as married woman; delivery of guardianship property to probate court guardian; discharge of circuit court guardian.

Sec. 3320. (1) The circuit court may direct and authorize general guardians or guardians ad litem to agree to a division or a sale of the entire premises or of as much of the premises as, in the opinion of the court, is incapable of partition, or of as much of the premises as the best interest of the ward requires to be sold.

(2) The guardian shall report on oath to the court the partition or sale he made under the court's direction and if the court approves and confirms the sale the court shall enter an order authorizing the guardian to execute conveyances of the rights of the ward to the purchaser of that portion of the estate, or to execute a release of the rights of the ward to the portion of the estate which in the division falls to the shares of the other joint tenants or tenants in common. Those deeds shall be valid and effectual to convey the share and interest of the ward.

(3) If any part of his estate is sold an infant shall be deemed a ward of the court and the court shall direct an order for securing, investing, and applying the proceeds of the sale, and for requiring security from the guardian for that purpose.

(4) If the infant is a married woman the court may, upon petition, appoint her husband as her guardian and he shall be subject to the provisions of this section.

(5) When a guardian has been appointed by the probate court, the circuit court guardian shall deliver all guardianship property and funds to the probate court guardian and upon receipt therefor, the guardian appointed by the circuit court shall be discharged.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 113, Eff. Aug. 28, 1964.

600.3324 Lands held in trust; parties; division among heirs or devisees.

Sec. 3324. (1) The provisions concerning partition are applicable to lands held by a trustee for the benefit of others, and a claim for partition may be instituted by the trustees or any person interested in the lands held in trust.

(2) When the original parties in interest in the trust, or any of them, have died, leaving heirs or legatees or others interested by title or right through them or any of them in the lands held in trust, the court, at its discretion, may divide the land by judgment among the heirs, legatees, or others representing the interests of the deceased in those lands so as to set off the interest of all of these persons together, without subdivision among them.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3328 Partition against state; service of papers; appearance.

Sec. 3328. Partition proceedings may be brought in the circuit courts against the state of Michigan whenever any lands are held jointly or as tenants in common by individuals and the state of Michigan.

All papers required to be served on the people of this state as defendants in a partition proceeding shall be served on the attorney general, who shall appear in behalf of the state and attend to its interests. The proceedings shall be conducted in the same manner as if they were against individuals and like orders and decrees shall be had. The proportion of the costs and expenses which are adjudged to be paid by the people of this state shall be certified by the attorney general and paid out of the state treasury on warrant of the state treasurer.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3332 Indivisible premises; division of part of premises; minimum price.

Sec. 3332. If the court finds that all the lands and tenements of which division or partition is sought are so situated, or that any district, tract, lot, or portion of the lands and tenements is so situated, that a partition and division of them among the persons interested in them cannot be made without great prejudice to the owners, the court may order the circuit court commissioner to sell the premises which cannot be divided or partitioned, at a public auction to the highest bidder. If the court finds that any portion, interest, or part can be divided and partitioned and that other portions, interests, or parts cannot be divided without great prejudice to the owners, the court may appoint partition commissioners and direct them to partition and divide the parts or interests which can be divided and to set aside to be sold the portions, interests, or parts which cannot be divided and these may be sold as provided in the court rules. The court may fix and determine the minimum price at which the real property may be sold.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3336 Owelty; adjustment of equities.

Sec. 3336. (1) When it appears to the court ordering partition that partition cannot be made equally between the parties without prejudice to the rights and interests of some of the parties the court may adjudge that 1 party compensate another in such a way as to equalize the partition according to the equities of the case.

(2) When partitioning the premises or dividing the money received from a sale of the premises among the parties the court may take into consideration the equities of the situation, such as the value of the use of the premises by a party or the benefits which a party has conferred upon the premises.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3340 Sales under partition; settlement of value of inchoate, contingent, or vested rights.

Sec. 3340. In all cases of sales under judgment in partition where it appears that any married woman has an inchoate right of dower in any of the lands divided or sold, or that any person has a vested or contingent future right or estate in the lands, the court under whose judgment the sale is made shall ascertain and settle the proportional value of the inchoate, contingent, or vested right or estate, according to the principles of law applicable to annuities and survivorships, and shall direct the proportion of the proceeds of the sale to be invested, secured, or paid over in the manner considered the best to secure the rights and interests of the parties. The payment, investment, or other securing of the proceeds of the sale shall be a bar to that right, estate, or claim.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3344 Release of interest by married woman; payment from proceeds of sale; effect on rights.

Sec. 3344. Any married woman may release her right, interest, or estate to her husband and lawfully

acknowledge this release. If the release is executed outside of this state it shall be executed, acknowledged, and certified as the laws of this state require for the execution, acknowledgment, and certification of deeds in any other state, territory, or district of the United States. Upon the release the shares of the sale arising from her contingent interest shall be paid to her. This release shall be a bar to her right, estate, or claim.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3348 Receiver; appointment; protection from waste, trespass, or injury.

Sec. 3348. Whenever it appears that to do so would benefit any part owner of the premises of which partition is sought, the court may appoint a receiver having such authority as is necessary to lease the premises; or protect them from waste, trespass, or injury; or for any other purpose.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3352 Claims barred by statute of limitations; acquiescence.

Sec. 3352. The authority given by this chapter to partition real estate does not authorize the revival or prosecution of any claim to lands which otherwise would be barred by the statute of limitations or by the acquiescence of any party who had the claim.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3356 Creditor with lien; transfer; impairment.

Sec. 3356. The partition of the premises shall not alter or impair the lien of any creditor on the premises in question, except that when the lien is on the undivided interest or estate of any of the parties, either in a portion or the whole of the premises partitioned, such lien, if partition can be made, shall thereafter be transferred, and be a charge only on the premises assigned to such party, and may be enforced against the same as though such lien had originally existed thereupon.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3360 Division of property among cestuis que trust in lieu of sale; authority from court.

Sec. 3360. In any estate vested in a trustee or trustees for the benefit of any person or corporation, whether by will or other grant or conveyance, where a provision is made for the sale of the trust property and distribution of the proceeds and where no limitation is placed upon the power of alienation, nor restriction made as to the time of the division and distribution of the proceeds of the trust property, and it appears to be more advantageous to the persons for whose benefit the trust was created to divide and distribute the trust property among them rather than to have the trustees sell the property and distribute the proceeds, the trustee may make a division and distribution of the trust estate among the persons entitled to the proceeds for the sale of the property in the same proportions as the terms of the instrument or grant which created the trust provide that the proceeds of the sale of the property should be distributed, upon authority being granted by the circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3364 Division of property among cestuis que trust in lieu of sale; procedure when all parties do not consent.

Sec. 3364. In all cases except where all the parties to be benefited by the distribution of the proceeds of the sale of the trust estate give their consent in writing to the division and distribution of the trust estate as above provided, the proceedings to obtain the authority of the court as aforesaid to divide and distribute said estate, may be instituted by the trustee or any person interested in such division and distribution, and shall conform to the provisions of this chapter relating to partition of lands, and the division and distribution, if authorized by the court, shall be effected in the manner provided by this chapter for partitioning the undivided interests of persons in real estate generally.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3368 Division of property among cestuis que trust in lieu of sale; procedure when all parties consent.

Sec. 3368. Such division or distribution of a trust estate may be made by a trustee without obtaining the authority of the court as aforesaid, when all the persons who would be entitled to share in the proceeds of the sale of such estate consent thereto in writing, and such trustee shall make such division and distribution when all of the parties interested as aforesaid so request in writing.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3372 Division of property among cestuis que trust in lieu of sale; consent of guardian of

minor, insane, or incompetent person.

Sec. 3372. When any of the persons entitled to share in the distribution of the proceeds of the sale of such trust estate is a minor, or insane, or incompetent to give his consent, or make such request, the division and distribution shall not be made without the authority of the court as aforesaid, unless the minor, insane or incompetent person has a general guardian, in which event such general guardian, upon obtaining the authority of the court appointing such guardian to consent to such division and distribution, or request that the same shall be made by the trustee, shall have the same power and authority to consent to such division and distribution or make request therefor, and agree upon a method of effecting such division and distribution as a person of full age and otherwise competent to act in the premises could do. The authority of the court appointing such guardian to give such consent, or make such request, may be obtained by such guardian filing with such court a petition showing the circumstances which it is deemed renders it to the advantage of the minor, insane or incompetent person to have such distribution or division made.

History: 1961, Act 236, Eff. Jan. 1, 1963.