

LAWS OF OHIO.

Published by Authority.

AN ACT

To establish a Code of Civil Procedure. Be it enacted by the General Assembly of the State of Ohio, as follows:

Preliminary Provisions.

Sec. 1. This Act shall be known as the Code of Civil Procedure of the State of Ohio.

Sec. 2. The rule of the common law, that a statute in derogation thereof, are to be strictly construed, and all proceedings under it, shall be liberally construed, with a view to promote its object, and assist the parties in obtaining justice.

TITLE I.

Form of Civil Actions.

Sec. 3. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, heretofore existing, are abolished; and in their place, there shall be, hereafter, but one form of action, which shall be called a civil action.

Sec. 4. In such action, the party complaining shall be known as the plaintiff, and the adverse party as the defendant.

Sec. 5. There can be no joined issues; but a question of fact, not put in issue by the pleadings, may be tried by a jury upon an order for the trial, stating distinctly and plainly the issues to be tried, and the order in which the only authority necessary for a trial.

TITLE II.

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Sec. 8. This title shall not apply to actions already commenced, or to cases where the right of action has already accrued, but shall apply to all actions now in force, shall be applicable to such cases, according to the subject of the action, and with regard to the form; nor shall this title apply in the case of a continuing and abiding trust, or to an action by a vendee of real property, in possession thereof, to obtain a conveyance of it.

Sec. 9. The act entitled, "an act for the limitation of actions," passed February eighteenth, one thousand eight hundred and thirty-one, and one hundred and sixtieth section of "an act to provide for the settlement of the estates of deceased persons," passed March twenty-third, one thousand eight hundred and thirty-one, and second section of "an act to give additional security to land titles in this State," passed March twenty-second, one thousand eight hundred and forty-nine, are hereby repealed.

Sec. 10. Civil actions shall only be commenced within the periods prescribed in this title, after the cause of action shall have accrued; but where, in special cases, a different limitation is prescribed by statute, the action may be commenced accordingly.

TITLE III.

Action for the recovery of Real Property.

Sec. 11. An action for the recovery of the title or possession of lands, tenements, or hereditaments, can only be brought within twenty years after the cause of such action shall have accrued.

Sec. 12. If a person entitled to commence an action for the recovery of the title or possession of any lands, tenements, or hereditaments, at the time of his death, is survived by a widow, or a married woman, insane, or imprisoned, every such person may, after the expiration of twenty years from the time his right of title first accrued, or, if he is a minor, within ten years after such disability is removed, and at no time thereafter.

Sec. 13. An action for the forcible entry or detention of lands, tenements, or hereditaments, can only be brought within two years after the cause of such action shall have accrued.

CHAPTER 4. Actions other than for the recovery of Real Property.

Sec. 14. Civil actions other than for the recovery of real property, except where the cause of action shall have accrued.

Sec. 15. Within fifteen years: An action upon a specialty, or any agreement, contract, or promise, in writing, or for the specific recovery of personal property.

Sec. 16. Within six years: An action upon a contract not in writing, express or implied.

Sec. 17. Within four years: An action for trespass upon real property.

Sec. 18. Within two years: An action for taking, detaining, or injuring personal property, including actions for the specific recovery of personal property.

Sec. 19. Within one year: An action for an injury to the rights of the plaintiff, not arising on contract, and not heretofore commenced.

Sec. 20. Within one year: An action for relief on the ground of fraud; the cause of action in such case shall not be deemed to have accrued, until the discovery of the fraud.

Sec. 21. Within one year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment.

Sec. 22. Within one year: An action upon a statute for a penalty or forfeiture, but which does not give such action, prescribes a different limitation, the action may be brought within the period so limited.

Sec. 23. Within one year: An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or other officer; or upon the bond or undertaking given in attachment, injunction, arrest, or in any case whatever required by statute, can only be brought within ten years after the cause of such action shall have accrued; but this section shall be subject to the qualification in section eight.

Sec. 24. An action for relief, not heretofore provided for, shall be deemed to have accrued, if the cause of action shall have accrued.

Sec. 25. If a person, entitled to bring any action mentioned in this chapter, dies, or is a minor, or is insane, or is imprisoned, every such person shall be entitled to bring such action within the period prescribed in this chapter, after such disability shall be removed.

TITLE IV.

General provisions.

Sec. 26. An action shall be deemed commenced within the meaning of this title, as to such defendant, at the date of the summons which is served on him, or on a co-defendant who is a joint contractor, or otherwise united in interest with him where service by publication is proper, the action shall be deemed commenced at the date of the first publication, which publication must be regularly made.

Sec. 27. An attempt to commence an action shall be deemed equivalent to the commencement thereof, within the meaning of this title, if the party faithfully, properly and diligently, endeavors to procure a service; but such attempt must be followed by service within sixty days.

Sec. 28. If, when a cause of action accrues against a person, he dies, or is a minor, or is insane, or is imprisoned, or concealed himself, the period limited for the commencement of the action shall not begin to run, until he comes into the State, or while he is so absent, or concealed, or if he departs from the State, or abscond or conceal himself, the time of his absence or concealment shall not be computed as any part of the period within which the action must be brought.

Sec. 29. Where the cause of action has arisen in another State or country between non-residents of the State, and by the laws of the State of country where the cause of action arose, an action cannot be maintained thereon by reason of lapse of time, no action can be maintained thereon in this State.

Sec. 30. If an action be commenced within the time limited, and if the plaintiff fail in such action otherwise than upon the merits, and the time limited for the same shall have expired, the plaintiff, on his behalf, may commence a new action, within one year after such reversal or failure.

Sec. 31. If any case founded on contract, when any part of the principal or interest shall have been paid, or an acknowledgment of an existing liability, debt, or claim, or any promise to pay the same, shall have been made, an action may be brought on such contract, or on such acknowledgment or promise, but such acknowledgment or promise must be in writing, signed by the party to be charged thereby.

of a contract of sale of real estate, may be brought in the county where the defendant, or any of them, reside.

Sec. 47. Actions for the following causes, may be brought in the county where the cause, or some part thereof, arose: 1. An action for the recovery of a fine, forfeiture, or penalty, imposed by a statute; except that, when it is imposed for an offense committed on a river or stream of water, or on which the boundary of two or more counties, the action may be brought in any county bordering on such river, water course, or road, and opposite to the place where the offense was committed.

2. An action against a public officer, for an act done by him in virtue or under color of his office, or for a neglect of his official duty; such an action may be brought in the county where the official bond or undertaking of a public officer.

Sec. 48. An action other than one of those mentioned in the first three sections of this chapter, against a corporation created by the laws of this State, or a partnership in which it is situated, or has its principal office or place of business; but if such corporation or partnership, the action may be brought in any county where the cause of action, or some part thereof, arose.

Sec. 49. An action against a railroad company, or an owner of a line of mail stages or other coaches, for an injury to person or property upon the road or line, or upon a liability as a carrier, may be brought in any county, through or into which said road or line passes.

Sec. 50. An action other than one of those mentioned in the first three sections of this chapter, against a turnpike road company, may be brought in any county in which any part of the road lies.

Sec. 51. The provisions of this chapter, shall not apply in the case of a corporation created by a law of this State, whose charter prescribes the place, where alone a suit against such corporation may be brought.

Sec. 52. An action other than one of those mentioned in the first three sections of this chapter, against a non-resident of this State or foreign corporation, may be brought in any county in which there may be property of, or debt due to or from the defendant, or where said defendant may be found; but if said defendant be a foreign insurance company, the action may be brought in any county, where the cause of action, or some part thereof, arose.

Sec. 53. Every other action must be brought in the county in which the defendant or some one of the defendants, reside, or may be summoned.

Sec. 54. In all cases, in which it shall be made to appear to the court, that a fair and impartial trial cannot be had in the county where the suit is pending, the court may change the place of trial to some adjoining county.

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