WEST VIRGINIA CODE CHAPTER 55 ARTICLE 5

WV Legislature

§55-5-1. Method of asserting claim.

Any defendant against whom a decree or judgment shall be rendered for land, where no assessment of damages has been made under the preceding article, may, at any time before the execution of the decree or judgment, present a petition to the court rendering such decree or judgment, stating that he or those under whom he claims, while holding the premises under a title believed by him or them to be good, have made permanent improvements thereon, and praying that he may be allowed for the same the fair and reasonable value thereof; and thereupon the court, if satisfied of the probable truth of the allegation, shall suspend the execution of the judgment or decree, and impanel a jury to fix and assess the damages of the plaintiff (if any) and the value of the improvements (if any) so made by the defendant.

WV Legislature

§55-5-2. Valuation of improvements made by defendant before notice of title.

If the jury be satisfied that the defendant, or those under whom he claims, made on the premises, at a time when there was reason to believe the title good under which he or they were holding such premises, permanent and valuable improvements, they shall estimate in his favor the value of such improvements as were so made before notice in writing of the title under which the plaintiff claims, as they are at the time such valuation is made.

WV Legislature

§55-5-3. Liability of defendant for annual value of premises and damages -- Assessment of damages for plaintiff.

The jury, in fixing and assessing such value and damages, shall estimate against the defendant the annual value of such part of the premises (if any) as was improved and in a state fit and prepared for cultivation at the time he took possession thereof, and also the damages for waste or other injury to the premises committed by the defendant, and shall credit him with the value of all the improvements made thereon, but no charge shall be made against the tenant for the use of any improvements made upon the land by him or for the use of any part of the land cleared by him

WV Legislature

§55-5-4. Same -- For what period defendant liable.

The defendant shall not be liable for such annual value or damages for any period longer than five years before the action or suit was brought, except that, if the sum allowed by the jury for the improvements exceed that allowed to the plaintiff for the annual value and damages of the premises under section three of this article, the jury may then estimate against the defendant such annual value and damages for the time he has used and occupied the same before the said five years.

WV Legislature

§55-5-5. Verdict for balance after damages set off against improvements; entry of judgment.

After setting off the amount allowed the plaintiff (if any) against the amount allowed to the defendant for improvements (if any), the jury shall find a verdict for the plaintiff or defendant, as the case may be, and judgment or decree shall be entered therefor according to the verdict.

WV Legislature

§55-5-6. Judgment lien.

Any such balance due to the defendant shall constitute a lien upon the land recovered by the plaintiff until the same shall be paid.

WV Legislature

§55-5-7. Reimbursement of life tenant by remainderman or reversioner.

If the plaintiff claim only on an estate for life in the land recovered, and pay any sum allowed to the defendant for improvements, he or his personal representative may recover, at the determination of his estate, from the remainderman or reversioner, the value of such improvements, as they then exist, not exceeding the amount so paid by him and shall have a lien therefor on the premises, in like manner as if they had been mortgaged for the payment thereof, and may keep possession of such premises until it be paid.

WV Legislature

§55-5-8. Exception as to mortgagees and trustees.

Nothing in this article, nor anything in article four of this chapter, concerning rents, profits and improvements, shall extend or apply to any suit brought by a mortgagee, or a trustee in a trust deed to secure creditors, his heirs or assigns, against a mortgagor, or grantor in such trust deed, his heirs or assigns, for the recovery of the mortgaged premises or of the land conveyed by such trust deed.

WV Legislature

§55-5-9. Plaintiff may require his estate only to be valued -- By entry on record.

When the defendant shall claim allowance for improvements, as before provided, the plaintiff may, by an entry on the record, require that the value of his estate in the premises, without the improvements, shall also be ascertained.

WV Legislature

§55-5-10. Same -- How estimated.

The value of the premises, in such case, shall be estimated as it would have been at the time of the inquiry, if no such improvements had been made on the premises by the tenant or any person under whom he claims, and shall be ascertained in the manner hereinbefore provided for estimating the value of improvements.

WV Legislature

§55-5-11. Same -- Relinquishment of estate to defendant at value ascertained.

The plaintiff in such case, if judgment is rendered for him may, at any time during the same term, or before judgment or decree is rendered on the assessment of the value of the improvements, in person or by his attorney in the cause, enter on the record his election to relinquish his estate in the premises to the defendant at the value so ascertained, and the defendant shall thenceforth hold all the estate that the plaintiff had therein at the commencement of the suit, provided he pay therefor such value, with interest, in the manner in which the court may order it to be paid.

WV Legislature

§55-5-12. Same -- Same -- How value paid; sale of land for failure to make payments; deficiency.

The payments shall be made to the plaintiff, or into court for his use, and the land shall be bound therefor, and if the defendant fail to make such payments within or at the time limited therefor, respectively, the court may order the land to be sold, and the proceeds applied to the payment of such value and interest, and the surplus, if any, to be paid to the defendant; but if the proceeds be insufficient to satisfy such value and interest, the defendant shall not be bound for the deficiency.

WV Legislature

§55-5-13. Same -- Same -- Disposition of value when party under disability.

If the party by or for whom the land is claimed in the suit be a minor or insane, such value shall be deemed to be real estate, and be disposed of as the court may consider proper for the benefit of the persons interested therein.

WV Legislature

§55-5-14. Same -- Same -- Eviction of defendant; recovery of amount paid.

If the defendant, or his heirs or assigns, shall, after the premises are so relinquished to him be evicted thereof by force of any better title than that of the original plaintiff, the person so evicted may recover from such plaintiff, or his representatives, the amount so paid for the premise, as so much money had and received by such plaintiff, in his lifetime, for the use of such person, with lawful interest thereon from the time of such payment.

WV Legislature