

premises set forth in the Petition, within the time for pleading according to the practice of the said Court.

X. Notice of the rule of allowance, and all other notices in any subsequent proceedings, unless otherwise specially directed, may be served by affixing the same in the Office of the Clerk of the Court, which shall be equivalent to personal service on the party to be affected thereby.

Service of notice of allowance and subsequent notices.

XI. Any party appearing may plead, either separately or jointly with one or more of his co-defendants, that the Petitioners or any of them, at the time of presenting the Petition were not entitled to or in possession of the premises or any part thereof, or that the defendants or any of them did not hold the premises together with the Petitioners at the time of the commencement of the proceedings, as alleged in the Petition; and such pleas shall form a complete issue, and any matters to support the claim or defence of either party may be given in evidence thereunder.

Pleadings and proof in the case.

XII. Any defendant may also deny the interest of any party made co-defendant, and the issue thereon may be tried at the same time as the other issues on the Petition.

A defendant may deny title of a co-defendant.

XIII. All issues so joined shall be tried on a record made up of the said Petition and the defences made in pleading thereto, and the like proceedings had thereupon in every respect as in personal actions, as to new trials, amendments and any other particulars.

Trial of the issues raised in the case.

XIV. If judgment shall be entered against any of the defendants by default for want of a plea, the Court shall still require the Petitioners to exhibit proof of their title, and from such proofs, or from the confession by plea of the parties, if they appeared, or from the verdict of a jury by which any issue of fact shall have been tried, the Court shall declare the rights, title and interest of the parties to such proceedings, plaintiffs as well as defendants, and shall determine the rights of the parties in such estate, and give judgment that such partition be made between such of them as have any rights therein, according to such rights, but not so as to affect any parties whose rights have not been ascertained.

Petitioners must shew title though the opposite party make default, &c.

Judgment.

XV. Whenever any judgment of partition shall be rendered, the Court shall, by rule, order the Real Representative to make the partition so adjudged, according to the respective rights and interests of the parties, as the same were ascertained and determined by such Court; and in such rule the Court shall designate the part or shares which remain undivided for the owners whose interests shall be unknown and not ascertained: and the Real Representative shall forthwith proceed to make such partition according to the judgment of the Court, unless it shall appear to him that partition cannot be made without prejudice to the owners of the estate, in which case he shall make a return of such fact to the Court in writing under his hand.

Real Representative to carry out the judgment of partition.

And report if the partition cannot be made without injury to the parties.

XVI. In making partition, the Real Representative shall divide the said real estate, and allot the several portions and shares thereof to the respective parties, as adjudged by the Court, designating the several shares by posts, stones or other permanent monuments, and he may employ a Surveyor to assist him therein; and he shall report to the said Court in writing the manner in which he has divided the said estate, and the share allotted to each party, with the quantity, and courses and distances of the boundaries of each share, and a description of the posts,

How the partition shall be made.

Survey.

Report.