

§3701. Contract price; attachment

Whoever, under express contract fixing the price to be paid by the other party thereto, sells, erects or furnishes any monument, tablet, headstone, vault, posts, curbing or other monumental work has a lien thereon to secure the payment of such contract price, which continues for 2 years after the completion, delivery or erection of such monument, tablet, headstone, vault, posts, curbing or other monumental work. Such lien may be enforced by an action for damages with an attachment, which shall be recorded within said 2 years by the clerk of the town in which the property subject to the lien is then situated; or such lien may be enforced by complaint setting forth the names and residences of the parties to the contract, the contract price, the sum due, the description and location of the property on which the lien is claimed and such other facts as are necessary to make it appear that such plaintiff is entitled to an enforcement of such lien, and praying for judgment for title and possession of the property therein described. Said complaint, before service thereof and within said 2 years, shall be recorded by the clerk of the town in which such property is situated and a certificate of such record indorsed thereon. The sum alleged to be due shall be deemed to be the damage and after the complaint has been recorded, an action may be commenced upon the complaint in any court of proper venue for a transitory action between the parties. Service shall be made as in other actions. If the plaintiff prevails, he shall recover judgment for title and possession of the property on which the lien is claimed, and for his costs, and a possessory execution may issue. By virtue of such judgment the judgment creditor, if unopposed, may take possession and remove the property described in his execution, otherwise any officer qualified to serve civil process, having said execution, may take possession of said property and deliver the same to the judgment creditor, and shall make his return on said execution accordingly. Said lien may be discharged at any time before final judgment by tendering the plaintiff the amount of the debt and costs.

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