WHAT IS QUIET TITLE?

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An action to quiet title is a lawsuit filed to establish ownership of real property (land and buildings affixed to land). Quiet titles are legal mechanisms that make it possible to grant a clear title to a single owner when there is the potential for several different claims to ownership. The name of the action refers to the result of this action, in that by establishing a clear owner to the real property, it is possible to "quiet" all other claims. A quiet title action effectively puts to rest any claims that may result from unclear transfers of the property that took place in times past.

A quiet title suit is also called a suit to remove a cloud. A cloud is any claim or potential claim to ownership of the property. The cloud can be a claim of full ownership of the property or a claim of partial ownership, such as a lien in an amount that does not exceed the value of the property. A title to real property is clouded if the plaintiff, as the buyer or recipient of real estate, might have to defend her full ownership of the property in court against some party in the future. A landowner may bring a quiet title action regardless of whether the respondent is asserting a present right to gain possession of the premises.

For example, assume that the seller of the property agreed to sell but died before the sale was finalized. Assume further that the seller also gave the property to a nephew in a will. In such a situation, both the nephew and the buyer have valid grounds for filing a suit to quiet title because each has a valid claim to the property.
One common reason for seeking an action to quick title is to clear up any possible lingering problems associated with property conveyed with the use of a quitclaim deed. A quitclaim deed basically ensures that the previous owner relinquishes all claims to the property, but does not necessarily pledge that the title is completely clear. Since the quitclaim deed does leave the door open for other former owners to claim an interest in the property, some means of protecting the interests of the current owner is necessary. That is where the quiet title comes in.
When property is purchased with the use of a quitclaim deed, the new owner usually moves forward with requesting a quiet title as soon as possible. Doing so provides the security of ownership that a quitclaim deed cannot provide. Once the quiet title is granted, the owner can be reasonably sure that the title is considered good and can proceed to make use of the property in any manner allowed by current laws.

Other typical grounds for complaint include:

- adverse possession where the new possessor sues to obtain title in his or her own name;
- fraudulent conveyance of a property, perhaps by a forged deed or under coercion;
- Torrens title registration, an action which terminates all unrecorded claims;
- tax taking issues, where a municipality claims title in lieu of back taxes owed (or a subsequent purchaser of land at a tax sale files action to gain insurable title);
- boundary disputes between states, municipalities, or private parties;
- surveying errors
- competing claims by reverters, remainders, missing heirs and lien holders (often arising in basic foreclosure actions when satisfied liens are not properly discharged from title due to clerical or recording errors between the county clerk and the satisfied lien holder)

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In order to obtain a quiet title, the claimant must request a decree from the local court of jurisdiction. As part of the process, the claimant must be able to present what the court would consider a legitimate claim to the property. For example, the claimant may be able to document that the property in question is current occupied by the claimant. Further, the claimant would need to prove that he or she had taken possession of the property in good faith, and had no idea there were other potential claimants to ownership.

The general rule in a quiet title action is that the plaintiff may succeed only on the strength of his own claim to the real estate, and not on the weakness of the respondent's claim. The plaintiff bears the burden of proving that he owns the title to the property. A plaintiff may have less than a fee simple, or less than full ownership, and maintain an action to quiet title. So long as the plaintiff's interest is valid and the respondent's interest is not, the plaintiff will succeed in removing the cloud (the respondent's claim) from the title to the property. If the court deems the claim to meet the standards set by the local jurisdiction, the claimant is granted what is known as an action to quiet title. This decree essentially is a formal announcement that the court recognizes the claim and believes it supersedes any other possible claims against the property. This is true even in cases where missing heirs, liens established under prior ownership, or remainders come to light at a later date. Unless compelling evidence arises at a later date, the claimant granted the quiet title is recognized as the legal and proper owner of the property.

The law on quiet title actions varies from state to state. Some states have quiet title statutes. Other states allow courts to fashion most of the laws regarding quiet title actions. Under the COMMON LAW, a plaintiff must be in possession of the property to bring a quiet title action, but many state statutes do not require actual possession by the plaintiff. In other states possession is not relevant. In some states only the person who holds legal title to the real estate may file a quiet title action, but in other states anyone with sufficient interest in the property may bring a quiet title action. Generally, a person who has sold the property does not have sufficient interest. When a landowner owns property subject to a mortgage, the landowner may bring a quiet title action in states where the mortgagor retains title to the property. If the mortgagee keeps the title until the mortgage is paid, the mortgagee, not the landowner, would have to bring the action.

Source: www.wikipedia.com, http://law.jrank.org

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