

WHAT IS QUIET TITLE?

An action to quiet title is a lawsuit filed to establish ownership of real property (land and buildings affixed to land). The plaintiff in a quiet title action seeks a court order that prevents the respondent from making any subsequent claim to the property. Quiet title actions are necessary because real estate may change hands often, and it is not always easy to determine who has title to the property.

A quiet title suit is also called a suit to remove a cloud. A cloud is any 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 his/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.

One common reason for seeking a quiet 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 the other former owners to claim an interest in the property, that is where the quiet title comes in. The law on quiet title actions varies from state to state. Some states have quiet title statutes.

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.

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.