Fidelity National Title

Quiet Title in California - an Overview

The purpose of a quiet title action is to establish title against adverse claims to real property or any interest in the property. [Code Civ. Proc. §760.020] The remedy of quiet title can be combined with other causes of action or other remedies. In an action or proceeding in which establishing or quieting title to property is in issue, the court may, in its discretion and on the motion of any party, require that the issue be resolved pursuant to the Code Civ. Proc. provisions relating to quiet title actions. [Code Civ. Proc. §760.030]

JURISDICTION

A quiet title action must be brought in the superior court of the county in which the real property is located. Once the action is before the court, the court has complete power to determine title issues. [Code Civ. Proc. §§760.040, 760.050]

REQUIREMENTS

A complaint to quiet title must be verified and must contain all of the following information [Code Civ. Proc. §761.020]:

1. a description of the property that is the subject of the action. This must include both the legal description and the street address or common designation, if any.

2. the title of the plaintiff as to which a determination of quiet title is sought. If the complaint is based on adverse possession, the complaint must allege the specific facts constituting the adverse possession.

3. the adverse claims to plaintiff's title.

4. the date as of which the determination is sought. If the determination is sought as of a date other than the date the complaint is filed, the complaint must include a statement of the reasons why a determination as of that date is sought.

5 a prayer for the determination of plaintiff's title against the adverse claims.

The plaintiff must name as defendants all persons known or unknown claiming an interest in the property. [Code Civ. Proc. §§762.010, 762.020] Any person who claims an interest in the property can join in the action, whether or not named as a defendant. [Code Civ. Proc. §762.050]

NOTICE OF PENDING ACTION (LIS PENDENS)

A notice of pendency of action is required in any quiet title action. [Code Civ. Proc. §761.010] A "notice of pendency of action" or "notice" is a notice of the pendency of an action in which a real property claim is alleged. [Code Civ. Proc. §405.2] Formerly known as a "lis pendens", a notice of pendency of action provides constructive notice to purchasers or encumbrancers of real property of any pending actions affecting title to or possession of the real property and enables those parties to find notice of pending litigation in the recorder's office in which the real property is located. It furnishes the most certain means of notifying all persons of the pendency of the action and to warn them against any attempt to acquire a legal or equitable interest in the real property.

PROOF REQUIREMENTS

A plaintiff seeking to quiet title against a person with legal title to property has the burden of proving title by clear and convincing proof, rather than by the preponderance of evidence usually used in civil cases. [Evid. Code §662] Evidence Code §662 does not apply when legal title itself is disputed. In that case, factual issues are determined by the preponderance of the evidence standard of proof.

TRIAL

An action to quiet title is an equitable action; there is no right to a jury trial. Quiet title is generally an equitable claim, and equitable defenses may be asserted against it. However, if the plaintiff is out of possession and seeks to recover possession by a quiet title action, the action is legal.

JUDGMENT

A judgment in an action to quiet title is binding and conclusive on all persons known or unknown who were parties to the litigation and who have a claim to the property. [Code Civ. Proc. §764.030] The judgment will not affect title of a person who was not a party to the action if their claim was of record or if the claim was actually known, or should reasonably have been known, to the plaintiff.