

Addressing Selected Title Defects

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Addressing Selected Title Defects



Declaratory Judgment vs. Quiet Title

Comparison of PA and WV

■ ■ Quiet Title



- Pennsylvania has procedural scheme for bringing Quiet Title Actions, PA.R.C.P. 1061 *et seq.*
- West Virginia – common law based
- In PA, three types of claims a party can bring under the Rules:
 - To compel an adverse party to commence an action for ejectment
 - Where no right to ejectment lies, to determine whatever right the Plaintiff may have in the property
 - To compel an adverse party to acknowledge your good title or file any document which would establish the same

■ ■ The First Claim Under Quiet Title Rules



- PA.R.C.P. 1061(b)(1) a plaintiff may file an action to “compel an adverse party to commence an action of ejectment”

■ ■ The First Claim Under Quiet Title Rules

- Requirements for P.A.R.C.P. 1061(b)(1) claim:
 - Plaintiff must be “out of possession”
 - Defendant must possess the real property at issue
 - Thus, where the Plaintiff is not out of possession, no right to ejectment exists
 - If defendant fails to bring an action in ejectment he/she/it is forever barred from asserting any right to the property

■ ■ Ejectment



Like Quiet Title, Pennsylvania has a procedural scheme in place for bringing an action in ejectment, PA.R.C.P. 1051, *et. seq.*

West Virginia: W.Va. Code 55-4-14, statutory remedy (not necessarily a scheme)

■ ■ Ejectment



- Pleading requirements for action in ejectment:
 - Venue
 - County(s) where the property is located
 - Specific averments
 - Must describe the land which is the subject matter of the lawsuit
 - Must provide an abstract of title back to the plaintiff or defendant's common source of adverse title
 - Plaintiff must state in the complaint any claims for rents, profits, or any other damages occasioned by the Defendant's occupation of the premises

■ ■ Ejectment



- Plaintiff's *Prima Facie* Case in Ejectment:
 - Plaintiff must prove its good title - cannot rely on a Defendant's poor title
 - Record title is presumptively valid and is sufficient to make a *prima facie* case for a Plaintiff's good title. *Doman v. Brogan*, 405 Pa. Super. 254 (PA. Super. Ct. 1991)

■ ■ Ejectment

- Defenses to an action for ejectment
 - The Plaintiff's title is defective
 - Adverse possession
 - The Defendant's title to the property is good
 - A third-party's title to the property is superior to the Plaintiff's title
 - The Plaintiff does not have an immediate right to possession

■ ■ Ejectment



- Examples where ejectment is warranted:
 - To invalidate an oil and gas lease which is in active production

■ ■ The Second Claim Under Quiet Title Rules



- PA.R.C.P. 1061 (b)(2)
 - “where an action of ejectment will not lie, to determine any right, lien, title or interest in the land or determine the validity or discharge of any document, obligation or deed affecting any right, lien, title or interest in land.”

■ ■ The Second Claim Under Quiet Title Rules



- Elements of claim under 1061(b)(2):
 - Party is not in possession
 - Party does not have the immediate right to possess the land
 - Party wishes to determine all rights in the land. *Siskos v. Britz*, 567 Pa. 689, 699 (2002)

■ ■ Pleading Requirements under 1061(b)(2)



- Venue
 - Like ejectment, venue is proper in only the county(s) where the property is located Pa.R.C.P 1062
- Specific Averments
 - Unlike ejectment, the Plaintiff is not required to plead an abstract of title Pa.R.C.P. 1065
 - Must plead an adequate description of the property
 - Mere incorporation to a reordered deed is not sufficient to describe property
 - However, plaintiff must still plead sufficient facts to establish their entitlement to relief

■ ■ Quiet Title



- Tried by judge, not jury
 - Quiet Title Actions non-jury
 - Where a counterclaim or cross claim raises issues which entitle a party to a jury trial, the court can sever that issue, hold trial on title, and if necessary, hold trial on damages

■ ■ The Second Claim Under Quiet Title Rules



- Defendant may raise any counterclaim it wishes
 - Defendant may be precluded from filing counterclaim for equitable relief. *See Shuttle v. Abate*, 39 PA. D. & C.3d 377, 377 (Erie Co. 1986)
- Pennsylvania does not have compulsory counterclaims
 - Contrast: Federal Rules, WV

■ ■ The Second Claim Under Quiet Title Rules



- Examples where Quiet Title under 1061(b)(2) is preferred
 - Determine title in severed oil and gas estate where no oil or gas development has occurred
 - Invalidate an oil and gas lease where no oil or gas development has occurred
 - Determine the validity of two conflicting oil and gas leases where no oil or gas development has occurred

■ ■ Third Type of Claim under Quiet Title Rules 1061(b)(3)



- “to compel an adverse party to file, record, cancel, surrender or satisfy of record, or admit the validity, invalidity or discharge of, any document, obligation or deed affecting any right, lien, title or interest in land”

■ ■ Third type of claim under Quiet Title Rules 1061(b)(3)



- No requirement that Plaintiff is/not in possession
- Purpose of rule is to remove some cloud on title created by:
 - Document
 - Deed
 - Obligation

■ ■ Third type of claim under Quiet Title Rules 1061(b)(3)



- Examples where 1061(b)(3) is appropriate
 - Remove or satisfy mortgage
 - Surrender oil and gas lease
 - Determine validity of tax deed
 - Remove negative surface or use restrictions which impact oil and gas estate/lease

■ ■ Declaratory Judgment Actions



- Statutory Scheme
 - PA -- Declaratory Judgment Act, PA.C.S. 7531, *et.seq.*
 - WV – DJA, WV Code 55-13-1; RCP 57
- Allows court to declare as between one or more parties
 - Rights
 - Status
 - Other legal relations

■ ■ Declaratory Judgment Actions



- Can be used to declare rights as to *inter alia*, oil and gas
 - Estate
 - Lease 42 PA.C.S.S. 7533

■ ■ Declaratory Judgment Actions



- Pleading requirements
 - No special pleading requirements
 - Pennsylvania Rules of Civil Procedure apply
- Responsive Pleading requirements
 - No special pleading requirements
 - Defendant may raise counterclaims and cross claims

■ ■ Declaratory Judgment Actions



- Necessary Parties
 - All parties with any “interest” in the subject matter of the declaratory judgment action, must be joined to the lawsuit
 - Court does not have subject matter jurisdiction to hear matter where all necessary parties were not joined

■ ■ Interested Parties



- In cases where the validity of an oil or gas lease is an issue, join:
 - Lessee
 - Lessor
 - Anyone in privity of contract with the above
 - Owner of severed oil and gas estate
 - Anyone who owns an overriding royalty interest

■ ■ Interested Parties



- To determine rights as to severed oil and gas estate join:
 - Anyone who claims ownership of the oil and gas estate in dispute
 - Lessee(s)
 - Lessor
 - Overriding royalty owner(s) (if any)
 - Anyone in privity with the above

■ ■ Interested Parties



Make sure to amend the complaint if any of the previous referenced parties changes during pendency of the lawsuit



Quiet Title

PA - Well defined statutory scheme outside of DJ action

WV - Common law based claims typically brought as a DJ action



Thank You!

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