CHAPTER 11

Confirmation of Titles

**SECTION 27‑11‑10.** State not precluded as to escheated lands by grants and the like.

 The State shall not be precluded by possession, grant, conveyance or any other cause or title from making inquest and sale of all such lands as have heretofore escheated to the State by the death of the person last seized thereof, any law, custom or usage to the contrary notwithstanding. But no lands claimed under grant or under an actual possession for five years prior to July 4, 1776 shall be affected by this section.

HISTORY: 1962 Code Section 57‑51; 1952 Code Section 57‑51; 1942 Code Section 8853; 1932 Code Section 8853; Civ. C. ‘22 Section 5616; Civ. C. ‘12 Section 4089; Civ. C. ‘02 Section 2988; G. S. 2309; R. S. 2447; 1787 (5) 48.

CROSS REFERENCES

Escheated lands generally, see Sections 27‑19‑10 et seq.

Library References

Escheat 8(1).

Westlaw Topic No. 152.

C.J.S. Escheat Sections 7, 22 to 23.

LAW REVIEW AND JOURNAL COMMENTARIES

Delivery of Deeds in South Carolina. 20 S.C. L. Rev. 299.

The Recording of Land Titles in South Carolina (Herein of Bona Fide Purchase of Land): A Title Examiner’s Guide. 10 SC LQ 346.

NOTES OF DECISIONS

In general 1

1. In general

Grant or five years’ previous possession before July 4, 1776 exempts from escheat. Warnock v Wightman (1804) 3 SCL 331. Wilkins v Tart (1826) 14 SCL 518.

If the statute of limitations has run against an individual before his death, the escheat laws, after his death, cannot operate against the individual who has acquired a title by possession. Wilkins v. Tart (S.C. 1826). Escheat 3

The statute of limitations cannot bar escheat. Harlock v. Jackson (S.C. 1812). Limitation Of Actions 11(1)

**SECTION 27‑11‑20.** Former grants and the like made valid; persons may hold under same against State.

 All persons who are now possessed of or hold any messuages, lands, tenements or hereditaments whatsoever in this State by and under any original patents, grants or deeds, indented or poll, either made by the former lords proprietors or by their palatine, or his deputy, and any three or more of the lords proprietors, or their deputies, or by any of their governors, and any three or more of the lords proprietors, or the lords proprietors’ deputies, or by any other person or persons whatsoever, commissioned by their palatine, and any three or more of the lords proprietors, or by any five of the lords proprietors, their deputies or commissioners, as of fee simple or fee simple conditional or for life or for a term of years and all other persons whatsoever who are now possessed of or do hold any such estates, by virtue of any mesne conveyances derived from and under all or any such original patents, grants and deeds, indented or poll, shall from henceforth quietly and peaceably have, hold, use, occupy, possess and enjoy all and every such messuages, plantations, lands, tenements and hereditaments whatsoever, to them, their heirs, executors, administrators and assigns, respectively, according to the several tenures in such original patents, grants, deeds indented or deeds poll, mesne conveyances or last wills, derived from and under them respectively mentioned and expressed, and that against the State forever and against the lords proprietors and their heirs and all persons whatsoever, save and except as hereinafter excepted.

HISTORY: 1962 Code Section 57‑52; 1952 Code Section 57‑52; 1942 Code Section 8681; 1932 Code Section 8681; Civ. C. ‘22 Section 5203; Civ. C. ‘12 Section 3440; Civ. C. ‘02 Section 2354; G. S. 1762; R. S. 1873; 1731 (3) 298.

Library References

Property 1.

Westlaw Topic No. 315.

C.J.S. Property Sections 1 to 5, 17, 19, 21, 30 to 31, 37 to 38.

**SECTION 27‑11‑30.** Former patents, grants, and deeds, indented or poll, are valid notwithstanding certain designated errors.

 Such patents, grants and deeds, indented or poll, shall be held valid notwithstanding:

 (1) Any misnomer or omission of the names of any of the lords proprietors or their deputies, any want of significant and necessary words in law for conveying of such lands, any omission, commission or mistake whatsoever in such grants done, omitted or committed by all or any of the lords proprietors, their deputies or trustees commissioned by the lords proprietors for selling of lands in this State;

 (2) Any proper seal not being used or affixed by the proprietors, their governors, deputies, commissioners or trustees to any such patent, grant, indenture, deed or commission;

 (3) The lands granted or conveyed, or intended to be granted and conveyed, by such patents, grants and deeds, indented or poll, have not been sufficiently described or ascertained in such patents, grants or deeds, indented or poll, if, nevertheless, such lands, or some part thereof, have been surveyed or meted out, or ascertained by survey to such patentees, grantees or purchasers or to their heirs or assigns or to the heirs or assigns of the persons named as assigns in grants or deeds of assignment of any such patents, grants or deeds or to any of their attorneys or agents in their behalf by a survey of a sworn surveyor or surveyors, as part of such patent lands, or certified or returned into the office of the late surveyor general (now Secretary of State), by a sworn surveyor or surveyors thereto appointed, or if such lands, or some part thereof, have been described or ascertained by subsequent grants thereof, to such original patentees, grantees or to persons named as such, their heirs or assigns, or to under‑purchasers by mesne conveyances from such original patentees, grantees or assignees or persons named as such, their heirs or assigns, or to persons claiming under them as such, or to their attorneys or agents in their or any of their behalf before August 20, 1731;

 (4) Any want of livery and seizin, enrollment, attornment or any other defect whatsoever in the execution of all or any such patents, grants or deeds, indented or poll, so made by the lords proprietors, or any of them, their governors, deputies or commissioners, in the not timely execution or for the nonexecution of the same, by reason of the first or former patentee or patentees dying before such lands were meted out to him or them, in part of such patents, or otherwise howsoever, if, nevertheless, the heir or heirs of the persons who were named as patentees or grantees, or purchasers in such patents, grants or deeds of assignment, or their heirs or assigns of such first or former patentee or patentees, or any person or persons whatsoever, claiming as such, under all or any of them, their agents or attorneys, did cause any part of such vacant and unoccupied lands to be meted out or ascertained to them, or any of them, their heirs or assigns, or persons named as such in such deeds of assignment, conveyances or last wills, or to their attorneys or agents in their behalf, by survey or surveys of a sworn surveyor or surveyors, or certified or returned into the late surveyor general’s office, for and in part of such patent lands before conveyed or intended to be conveyed by such original patents, grants, indentures or deeds; or

 (5) Any other defect, omission or commission in form or substance, law or fact, in all or any such original patents, grants, indentures or deeds, or assignments of them, or in the execution thereof or any of them, if such lands, or some part of them, have been meted out or ascertained to such patentees, grantees or assigns or to persons named as such in any such patents, grants or deeds of assignment or to their attorneys or agents in their behalf or returned into the late surveyor general’s office as aforesaid, at any time before August 20, 1731.

HISTORY: 1962 Code Section 57‑53; 1952 Code Section 57‑53; 1942 Code Section 8682; 1932 Code Section 8682; Civ. C. ‘22 Section 5204; Civ. C. ‘12 Section 3441; Civ. C. ‘02 Section 2355; G. S. 1763; R. S. 1874; 1731 (3) 298.

Library References

Property 1.

Westlaw Topic No. 315.

C.J.S. Property Sections 1 to 5, 17, 19, 21, 30 to 31, 37 to 38.

**SECTION 27‑11‑40.** Ratification and confirmation of former patents, grants, and the like saving claims of third persons.

 All such patents, grants, indentures and deeds and all other patents, grants, indentures and deeds from the proprietors, their governors, deputies, commissioners or trustees, when any lands have been so meted or ascertained, or returned as aforesaid, and the assignments thereof, are hereby ratified and confirmed, for and notwithstanding all or any such defects in the patents, grants or deeds aforesaid, or any of them, or the assignments thereof, or other defects whatsoever, in not timely executing, undue or nonexecution thereof as aforesaid, saving to every person and persons whatsoever, bodies politic and corporate, their executors, administrators and assigns, other than to the State and other than to the lords proprietors and their heirs and other than to such persons who do or may stand seized or possessed in trust for the State or for the lords proprietors, all such right, title, interest and demand whatsoever which they or any of them now have and may claim of, in or to such lands, tenements and hereditaments whatsoever or any part thereof.

HISTORY: 1962 Code Section 57‑54; 1952 Code Section 57‑54; 1942 Code Section 8683; 1932 Code Section 8683; Civ. C. ‘22 Section 5205; Civ. C. ‘12 Section 3442; Civ. C. ‘02 Section 2356; G. S. 1765; R. S. 1875; 1731 (3) 299.

Library References

Property 1.

Westlaw Topic No. 315.

C.J.S. Property Sections 1 to 5, 17, 19, 21, 30 to 31, 37 to 38.

**SECTION 27‑11‑50.** Estates of John Lord Carteret and lords proprietors shall not be altered, abridged, or revived.

 Nothing herein contained shall extend or be construed to alter or abridge the Right Honorable John Lord Carteret, his heirs, executors, administrators or assigns, or the lords proprietors or their heirs of any estate, right, title or interest whatsoever which have or has been saved and reserved unto said John Lord Carteret, or to the late lords proprietors, or any of them, in and by the act entitled “An Act for Establishing an Agreement with Seven of the lords proprietors of Carolina, for the Surrender of their Title and Interest in that Province to his Majesty”; nor to revive or enlarge any estate or right or interest whatsoever in the lords proprietors, or any of them, their or any of their heirs, of, in and to the estates aforesaid, or any part thereof, which they or any of them have granted and conveyed as aforesaid, to any person or persons whatsoever, or which they have surrendered by virtue of the aforesaid act.

HISTORY: 1962 Code Section 57‑55; 1952 Code Section 57‑55; 1942 Code Section 8684; 1932 Code Section 8684; Civ. C. ‘22 Section 5206; Civ. C. ‘12 Section 3443; Civ. C. ‘02 Section 2357; G. S. 1765; R. S. 1875; 1731 (3) 299.

**SECTION 27‑11‑60.** Grants, deeds and the like before August 20, 1731 shall not be impeached for certain causes.

 No grant, deed of feoffment, deed or bargain and sale, deed of gift or other conveyance of any lands or tenements whatsoever made prior to August 20, 1731 shall be impeached or set aside in any court of law or equity for want of attornment or of livery and seizin or enrollment thereof or because such conveyance has been made by way of assignment or endorsement on such deed or grant without other ceremony, nor for any other defect in the form or in the manner of the execution of such deed or grant or of the endorsement or assignment thereof, either by the first grantor or in any of the mesne conveyances derived therefrom, if the right was or would have been in the person conveying if such defects had not happened in the form of such grants, deeds or conveyances or in the manner of the execution of them as aforesaid.

HISTORY: 1962 Code Section 57‑56; 1952 Code Section 57‑56; 1942 Code Section 8685; 1932 Code Section 8685; Civ. C. ‘22 Section 5207; Civ. C. ‘12 Section 3444; Civ. C. ‘02 Section 2358; G. S. 1766; R. S. 1876; 1731 (3) 302; 1712 (2) 434.

**SECTION 27‑11‑70.** Effect of possession of lands five years before July 4, 1776.

 An actual peaceable and quiet possession of lands five years previous to July 4, 1776 shall be deemed a good and sufficient title and any grant obtained since that time, or which may be obtained, for such land is hereby declared null and void.

HISTORY: 1962 Code Section 57‑57; 1952 Code Section 57‑57; 1942 Code Section 8688; 1932 Code Section 8688; Civ. C. ‘22 Section 5210; Civ. C. ‘12 Section 3447; Civ. C. ‘02 Section 2361; G. S. 1769; R. S. 1880; 1787 (5) 40.

Library References

Property 1.

Westlaw Topic No. 315.

C.J.S. Property Sections 1 to 5, 17, 19, 21, 30 to 31, 37 to 38.