

1977 WL 37021 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 3, 1977

***1 Re: Attorney's Duty to Disclose Possibility of Catawba Indians' Claims Against York County Property**

C. W. F. Spencer, Jr., Esq.
Attorney at Law
P. O. Box 790 C.S.S.
Rock Hill, South Carolina 29730

Dear Mr. Spencer:

Volume 10 of the South Carolina Law Review No. 3 at 384 states that explicit proof of an outstanding interest is sufficient to establish that a subsequent purchaser takes subject to the unrecorded interest. The article states further that if: the circumstances with which it is sought to charge the subsequent purchaser with notice consist merely of less explicit reports or rumors concerning the title, whether or not the purchaser is to be so charged with notice depends upon whether such reports or rumors are those which would attract the attention of a reasonable man and convince him that further investigation was necessary.

The article distinguishes between 'idle rumors' and those rumors which would attract the attention of a reasonable man.

The question, in light of the above article, is whether the possibility of Catawba Indian claims is a rumor or report, such as a reasonable man would pay heed to and make further investigation upon.

7 C.J.S. § 69, at 857, states that a purchaser is usually chargeable with the notice to, or knowledge of, his attorney in respect of matters affecting title received or obtained by the attorney while acting for the purchaser in connection with the acquisition of the property.

92 C.J.S. § 191(c), at 30, states that a title is not rendered unmarketable by the mere possibility of litigation. The test is whether there is a chance of a successful attack.

Therefore, the individual judgment of the attorney based upon his understanding of the law and facts must control any given transaction. There is no given answer to your question; it rests with the individual attorney's judgment as to the validity of any potential claim.

Sincerely,

A. Camden Lewis
Assistant Attorney General

1977 WL 37021 (S.C.A.G.)

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.