

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

November 20, 1989

SUBJECT: Taxation & Revenue - Homestead Exemption -  
Mobile Home Acquired Under Contract Of Sale.

SYLLABUS: A purchaser of a mobile home, under an agreement that title to the mobile home is to be delivered upon completion of required payments, holds an interest in the title to the mobile home sufficient to satisfy the ownership requirement for part of the homestead exemption.

TO: Ms. Kathleen B. Hipskind  
Office of Horry County Auditor

FROM: Joe L. Allen, Jr. *OSA*  
Chief Deputy Attorney General

QUESTION: A purchaser acquires possession and use of a mobile home under a contract of sale. Under the agreement, the seller is to provide a good title or deed to the mobile home when the payments are completed. The issue is whether the purchaser has a sufficient interest in the mobile home to satisfy the ownership requirement for the exemption?

APPLICABLE LAW: Section 12-37-250, Code of Laws of South Carolina, 1976, as amended.

DISCUSSION:

Section 12-37-250 provides a homestead exemption to persons sixty-five years of age or older or who are totally and permanently disabled or who are blind. The section requires, however, that such person hold:

" . . . a complete fee simple title or life estate to the dwelling place."

A purchaser as herein described would obviously fail to satisfy this requirement and hence the exemption could not be granted.

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The section, however, further provides:

"The homestead tax exemption shall be granted in the amount herein provided to those persons who own a dwelling in part in fee or in part for life when such persons satisfy the other conditions of the exemption. The amount of the exemption shall be determined by multiplying the percentage of the fee or life estate owned by such person to the full exemption. The exemption shall not exceed the value of the interest owned by such person. For purposes of the exemption, each owner of a part of the fee or life estate shall be deemed to own equal interest in the homestead."

The legislature by this 1980 amendment modified the requirement for a complete fee simple or life estate to the dwelling. (See Act 331, Acts of 1980) A person who owns a "part of the fee" under this act now satisfies the ownership requirements.

In an opinion of February 12, 1976, we concluded that a similar interest in property purchased from the Veterans' Administration satisfied the ownership requirements for property to be taxed within the residential classification. Section 12-43-220 required the legal residence to be "owned totally or in part in fee or by life estate." That opinion was based upon the doctrine of equitable conversion. Under that doctrine, the purchaser is deemed to be the owner of the property subject to the liability to make the payments.

"A contract for the sale of land operates as an equitable conversion; the vendee's interest under the contract becomes realty and the vendor's interest under the contract constitutes personalty. In equity the purchaser is regarded as the owner subject to liability for the unpaid price and the vendor as holding the legal title in trust for him from the time a valid agreement for the purchase of land is entered into. This view of the estate of the purchaser is based on the maxim that 'equity regards and treats

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as done what, in good conscience, ought to be done.' Accordingly, in equity a contract for the sale of land is treated, for most purposes, precisely as if it had been specifically performed. Thus, as a vendee makes payments on a land contract the vendor becomes trustee for him of the legal estate, and he becomes in equity the owner of the land to the extent of payment made. A contract for the sale of land, part of the purchase price being paid and possession taken, vests in the vendee an equitable title in fee. The vendor is a trustee of the legal title for the vendee to the extent of his payment." 77 Am.Jur. 2d, Vendor and Purchaser, Section 317, page 478. See also 27 Am.Jur. 2d, Equitable Conversion, Section 11, page 494.

Based upon this doctrine, the purchaser owns an interest in the property that meets the requirements for part of the exemption. The amount of the exemption, however, would be dependent upon the number of separate owners.

CONCLUSION:

A purchaser of a mobile home, under an agreement that title to the mobile home is to be delivered upon completion of required payments, holds an interest in the title to the mobile home sufficient to satisfy the ownership requirement for part of the homestead exemption.

JLAJR/jws