

1977 S.C. Op. Atty. Gen. 92 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-102, 1977 WL 24444

Office of the Attorney General

State of South Carolina

Opinion No. 77-102

April 11, 1977

\*1 Title to real property is held by liquidating trustees of a corporation when its charter is forfeited and such ownership does not meet the requirement of the exemption provided by Section 65–1522.1.

TO: Mr. Courtenay Carson

Director

Public Affairs

South Carolina Commission on Aging

### QUESTION

A corporation, the owner of a residence occupied by its shareholders, had its charter cancelled by forfeiture; title to the residence was conveyed to the shareholders February 17, 1977; the shareholder is disabled; does the property qualify for the homestead exemption for the 1977 tax year?

### STATUTE INVOLVED

Section 65–1522.1.

### DISCUSSION

The office is advised that the corporate charter was cancelled on November 25, 1965 by forfeiture under Section 12–22.11 of the South Carolina Code of Laws.

Section 65–1522.1, the exemption statute, requires as a condition for the exemption that the property be owned in complete fee simple. The question therefore is whether the property is so owned. Section 12–22.22(b) provides in case of a corporate dissolution that:

‘After dissolution of a corporation, the directors as of the date of dissolution, or the survivors of such directors, shall be deemed liquidating trustees of the corporation with authority to take all action necessary or appropriate to dispose of any undistributed property of the corporation.’

Our Court has stated:

‘The ture modern rule, arising out of the development in importance and variety of corporate organization and enterprise, and the principle which will be found running through nearly all modern judicial thought and expression, is that, on the dissolution of any corporation, the corporate assets, both real and personal, including debts due to the corporation, should be regarded as belonging to a trust estate in the hands of those who happen to have their custody, to be disposed of by the court of equity according to the equitable rights of interested parties. \* \* \*.’ [McAlhany v. Murray](#), 89 S. C. 440, 71 S. E. 1025. (Emphasis added)

The statute and case law above quoted makes the ownership, at least until the deed is executed to the shareholders, something less than complete fee simple. Such being the case, the ownership conditions of the exemption statute are not satisfied.

CONCLUSION

Title to real property is held by liquidating trustees of corporation when its charter is forfeited and such ownership does not meet the requirement of the exemption provided by Section 65-1522.1.

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