

1976 WL 30657 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 10, 1976

*1 A deed executed prior to December 31, 1971 that conveys property to a trustee for the benefit of the trustee for life with no duties imposed upon the trustee grants a life estate that qualifies for the homestead exemption.

Honorable Pauline S. Koger
Charleston County Auditor

QUESTION

In 1947 a deed was executed conveying certain real property in trust for the benefit of the grantee for life with remainder absolutely to another. The trustee is the life beneficiary and has made application for the Homestead Exemption and the question is whether a life estate in the property was granted by deed prior to December 31, 1971.

STATUTES INVOLVED

Section 65-1522(1) and Section 67-8.

DISCUSSION

The deed presented reflects that there are no duties imposed upon the trustee and she is to hold the property in trust for her benefit during her lifetime, with the remainder absolutely granted to her son without action by the trustee. Under Section 67-8, the life estate and remainder interest vested in the beneficiaries thereof when the deed was executed.

'In a passive trust the legal and equitable titles are merged in the beneficiaries and the beneficial use is converted into legal ownership * * *.' [Johnson v. Thornton](#), 214 S. E. 2d 124.

The deed granted the life estate prior to December 31, 1971, therefore, the same satisfies the requirements for such an estate for the Homestead Exemption.

CONCLUSION

A deed executed prior to December 31, 1971 that conveys property to a trustee for the benefit of the trustee for life with no duties imposed upon the trustee grants a life estate that qualifies for the Homestead Exemption.

Joe L. Allen, Jr.
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