

1976 WL 30952 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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\*1 The purchaser of realty under a contract of sale who has paid a portion of the purchase price owns an interest in the realty sufficient to satisfy the ownership requirement for a residential classification as provided in Act 208, Acts of 1975.

Mr. Robert S. Floyd  
Florence County Tax Assessor

### QUESTION

The Veterans Administration enters into a contract for the sale of realty with an individual who, under the terms of the contract, is given possession of the realty. The individual is to pay the purchase price for the realty in time or installment payments and, when the total price is paid, the Veterans Administration will execute a deed granting legal title to the individual. The individual maintains his legal residence on the realty and the question is whether the ownership by the individual is sufficient for purposes of the residential classification as provided in Act 208, Acts of 1975.

### STATUTE INVOLVED

Section 2(c) of Act 208, Acts of 1975, that provides in part:

“The legal residence and not more than five acres contiguous thereto when owned totally or in part in fee, or by life estate and occupied by the owner of such interest shall be taxed on an assessment equal to not less than two and one-half percent or not more than four percent for a period of four years of the fair market value of such property as determined by the governing body of the county concerned; \* \* \*.”

### DISCUSSION

The pertinent language of the statute requires that the property be “owned totally or in part in fee \* \* \*.” The term “in part in fee” is not defined and we do not find where the same has been construed by our courts.

Equity, however, under the doctrine of equitable conversion regards the purchaser as the owner of the property.

“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 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 payments 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.

\*2 Equity thus regards the purchaser as the owner of the land and it has been held that he is the absolute owner or the owner in fee. [Libby Lumber Co. v. Pacific States Fire Ins. Co.](#), 79 Mont. 166, 255 P. 340, 60 A.L.R. 1.

The purchaser's equitable title therefore constitutes an ownership in the property sufficient to satisfy the requirement of Act 208, Acts of 1975.

#### CONCLUSION

The purchaser of realty under a contract of sale who has paid a portion of the purchase price owns an interest in the realty sufficient to satisfy the ownership requirement for a residential classification as provided in Act 208, Acts of 1975.

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