

1972 WL 26129 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1972

*1 A life estate in real property would not qualify the owner of such an estate to the homestead exemption.

Honorable Pauline S. Koger
Charleston County Auditor
Post Office Box 614
Charleston, South Carolina 29402

Dear Mrs. Koger:

Reference is made to your letter of January 13, 1972, wherein you request the opinion of this office concerning the applicability of the homestead exemption in a case where the person holds a life estate in the property that constitutes his legal residence and in the case of property being held in fee simple by three persons and occupied by two of such persons as their legal residence but which is not the legal residence of the third person.

The Act, a copy of which is enclosed for your convenience, provides for the exemption only when 'complete fee simple title to the dwelling place' is held by the person over sixty-five years of age.

Section 65-1611 provides in part as follows:

'Every person shall be liable to pay taxes and assessments on the real property of which he may stand seized in fee or for life * * *.'

The section, therefore, recognizes the legal distinction between the ownership of a fee simple estate and a life estate and in the case of the life estate there is another estate in the same property, that of the remaindermen. It is thus the opinion of this office that the ownership of a life estate in the property would not be sufficient to qualify the same for the exemption in that the statute specifically requires the ownership of a complete fee simple estate.

In the case of the three persons owning the property in fee simple, two of whom occupy the property as their legal residence and the third person living elsewhere, such property would not qualify for the exemption because it is (a) not the legal residence of all the owners thereof and (b) the two that do occupy the property do not hold complete fee simple title thereto.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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