

CHAPTER 723**PROCEEDINGS TO QUIET TITLE****§6651. Summary proceedings**

A person in possession of real property, claiming an estate of freehold therein or an unexpired term of not less than 10 years, or a person who has conveyed such property or any interest therein with covenants of title or warranty, upon which he may be liable, may, if he or those under whom he claims or those claiming under him have been in uninterrupted possession of such property for 4 years or more, bring an action in the Superior Court, or in the District Court in the county or district respectively in which said real property lies, setting forth his estate, stating the source of his title, describing the premises, and averring that an apprehension exists that persons named in the complaint, or persons unknown claiming as heirs, devisees or assigns, or in any other way, by, through or under a person or persons named in the complaint, claim or may claim some right, title or interest in the premises adverse to his said estate; and that such apprehension creates a cloud upon the title and depreciates the market value of the property; and praying that such persons be summoned to show cause why they should not bring an action to try their title to the described premises. If any such supposed claimants are unknown, the plaintiff or his attorney shall so allege under oath, but the truth of the allegation shall not after decree has been filed be denied for the purpose of defeating the title established thereby. A person in the enjoyment of an easement is in possession of real property within the meaning and for the purposes of this section. [PL 1971, c. 117, §2 (AMD).]

SECTION HISTORY

PL 1971, c. 117, §2 (AMD).

§6652. Petition to remove easement

A person in possession of real property, claiming an estate of freehold therein or an unexpired term of not less than 10 years, or a person who has conveyed such property or any interest therein with covenants of title or warranty, upon which he may be liable, may, if he or those under whom he claims or those claiming under him have been in uninterrupted possession of such property for 4 years or more, bring an action in the Superior Court, or in the District Court in the county or district respectively in which said real property lies, by complaint setting forth his estate, describing the premises and averring that an apprehension exists that persons named in the complaint, or persons unknown, claim by continued and uninterrupted use for 20 years or more, by grant, prescription, custom or in any other way, an easement through or on such real property adverse to the estate of the said plaintiff and that such apprehension creates a cloud upon the title and depreciates the market value of such property; and praying that such persons be summoned to show cause why they should not bring an action to determine their legal rights in and to such easement over or upon said real estate. If such supposed claimants are unknown, the plaintiff or his attorney shall so allege under oath, but the truth of the allegation shall not after the decree has been filed be denied for the purpose of defeating the title established thereby. [PL 1971, c. 117, §3 (AMD).]

SECTION HISTORY

PL 1971, c. 117, §3 (AMD).

§6653. Complaint; grantee as party

An action under either section 6651 or 6652 shall be brought in the county or district respectively in which the real estate lies. Service in such action shall be made as in other actions on all supposed known claimants residing either in the State or outside the State, and notice to persons who are unascertained, not in being or unknown shall be given by publication as in other actions where

publication is required, unless the court on motion permits posting in such public places as the court may direct in lieu of all or part of the publication ordinarily required. Upon the filing of the complaint the clerk of courts in the county, or the clerk of the District Court in the district respectively where such proceedings are pending shall file a certificate in the registry of deeds in the county or district where said land is situated, setting forth the names of the parties, the date of the complaint and the filing thereof and the description of the real estate as given in the complaint, which said certificate shall be recorded by the register of deeds, who shall receive therefor the same fee as for recording a deed. The action shall not be abated by the death of any party thereto, nor by the conveyance of the premises by deed recorded after said certificate is recorded. The grantee of any defendant named or described in the complaint, or any person claiming under such grantee, may voluntarily appear and become a party, and make any defense that would have been open to the defendant under whom he claims. If any person who becomes such grantee by conveyance recorded after the filing of the certificate does not voluntarily appear, no such conveyance by the defendant shall be given in evidence, either in the proceedings on the complaint or in any action brought thereunder to try title to the premises as provided in section 6654, and the issue shall be determined as though no such conveyance were made. [PL 1971, c. 117, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 117, §4 (AMD).

§6654. Appearance of interested parties

If any person so summoned appears and claims title or an easement in the premises, or voluntarily appears as aforesaid and claims title or such easement, he shall by answer show cause why he should not be required to bring an action and try such title, or his title to such easement. The court shall make such decree respecting the bringing and prosecuting of such action as seems equitable and just. If any person so summoned appears and disclaims all right and title adverse to the plaintiff, he recovers his costs. If the court upon hearing finds that the allegations of the complaint are true and that notice by publication has been given as ordered, it shall make and enter a decree that all persons named in the complaint and all persons alleged to be unknown claiming by, through or under persons so named, and all persons named as grantees in any deed given by the defendant and recorded after the filing of the certificate, and all persons claiming under such grantee who have not so appeared, or who, having appeared, have disclaimed all right and title adverse to the plaintiff, or who, having appeared, shall disobey the order of the court to bring an action and try their title, shall be forever debarred and estopped from having or claiming any right or title adverse to the plaintiff in the premises described in the complaint; which decree shall within 30 days after it is finally granted be recorded in the registry of deeds for the county or district where the land lies, and shall be effectual to bar all right, title and interest, and all easements, of all persons, whether adults or minors, upon whom notice has been served, personally or by publication, and all persons named as grantees in any deed given by the defendant and recorded after the filing of said certificate and all persons claiming under such grantees. The court may in its discretion appoint agents or guardians ad litem to represent minors or other supposed claimants. If any person appears and claims an easement, however acquired, in such premises, he may bring an action to try the title thereto, alleging in his complaint how said easement was acquired and issue shall be framed accordingly. Any party may at his option assert such title or such easement by counterclaim in the plaintiff's action, but he shall not be required to do so. Trial of any action brought pursuant to a decree hereunder or of any counterclaim asserting such title or such easement shall be by jury, if brought in the Superior Court, unless waived. [PL 1971, c. 117, §5 (AMD).]

SECTION HISTORY

PL 1971, c. 117, §5 (AMD).

§6655. Description of unknown persons

If, in an action to quiet or establish the title to land situated in this State or to remove a cloud from the title thereto, the plaintiff, or those under whom he claims, has been in uninterrupted possession of the land described in the complaint for 4 years or more, claiming an estate of freehold therein, and seeks to determine the claims or rights of any persons who are unascertained, not in being, unknown or out of the State, or who cannot be actually served with process and made personally amenable to the decree of the court, such persons may be made defendants and, if they are unascertained, not in being or unknown, they may be described generally as the heirs or legal representatives of A.B., or such persons as shall become heirs, devisees or appointees of C.D., a living person, or persons claiming under A.B. It shall not be necessary for the maintenance of such action that the defendants shall have a claim or the possibility of a claim resting upon an instrument, the cancellation or surrender of which would afford the relief desired; but it shall be sufficient that they claim or may claim by purchase, descent or otherwise, some right, title, interest or estate in the land which is the subject of the action and that their claim depends upon the construction of a written instrument or cannot be met by the plaintiffs without the production of evidence. Two or more persons who claim to own separate and distinct parcels of land in the same county by titles derived from a common source, or 2 or more persons who have separate and distinct interests in the same parcel, may join as plaintiffs in any action brought under this section.

§6656. Service on missing defendant; agent; expenses

Service in such action shall be as provided in section 6653. Notice given under this section shall be constructive service on all the defendants. If, after notice has been given or served as ordered by the court and the time limited in such notice for the appearance of the defendants has expired, the court finds that there are or may be defendants who have not been actually served with process and who have not appeared in the action, it may of its own motion, or on the representation of any party, appoint an agent, guardian ad litem or next friend for any such defendant, and if any such defendants have or may have conflicting interests, it may appoint different agents, guardians ad litem or next friends to represent them. The cost of appearance of any such agent, guardian ad litem or next friend, including the compensation of his counsel, shall be determined by the court and paid by the plaintiff, against whom execution may issue therefor in the name of the agent, guardian ad litem or next friend.

§6657. Proceedings in court

After all the defendants have been served with process or notified as provided in section 6656, and after the appointment of an agent, guardian ad litem or next friend, if such appointment has been made, the court may proceed as though all the defendants had been actually served with process. Such action shall be a proceeding in rem against the land, and a decree establishing or declaring the validity, nature or extent of the plaintiff's title may be entered, and shall operate directly on the land and shall have the force of a release made by or on behalf of all defendants of all claims inconsistent with the title established or declared thereby. This section and sections 6655 and 6656 shall not prevent the court from exercising jurisdiction in personam against the defendants who have been actually served with process and who are personally amenable to its decrees.

§6658. Action by owners of wild land

Any person or persons claiming an estate of freehold in wild lands or in an interest in common and undivided therein, if the plaintiff and those under whom he claims has for 4 years next prior to the filing of the complaint held such open, exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of wild lands in this State, may maintain an action to quiet or establish the title thereto or to remove a cloud from the title thereto, as provided in sections 6655 to 6657.

§6659. Action by abutters of discontinued road or way

Any person or persons claiming an estate of freehold in a discontinued road or way, or in a portion thereof, or an interest in common and undivided therein, may maintain an action as provided in sections

6651 to 6654, or as provided in sections 6655 to 6657 in regard to said discontinued road or way, or portion thereof, without the need or necessity of showing 4 years of possession next prior to the filing of the complaint, provided that the claim of said person or persons to the discontinued road or way, or portion thereof, is based upon fee simple ownership of the land immediately adjoining said discontinued road or way. [PL 1971, c. 577 (NEW).]

SECTION HISTORY

PL 1971, c. 577 (NEW).

§6660. Burden of proof

In the trial of any action regarding title to a discontinued road or way, or portion thereof, brought pursuant to a decree under section 6654 or pursuant to sections 6655 to 6657, or of a counterclaim asserted pursuant to section 6654, the burden of proof concerning the construction of any deed or conveyance shall be borne by the party which is adverse to the party so owning said land immediately adjoining the discontinued road or way. [PL 1971, c. 577 (NEW).]

SECTION HISTORY

PL 1971, c. 577 (NEW).

§6661. Application

Sections 6659 and 6660 apply only in built-up areas as defined in Title 29-A, section 2074, subsection 2 in such cities and towns whose population exceeds 5,000 according to the last Federal Decennial Census. [PL 1995, c. 65, Pt. A, §42 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

SECTION HISTORY

PL 1971, c. 577 (NEW). PL 1977, c. 78, §112 (AMD). PL 1995, c. 65, §A42 (AMD). PL 1995, c. 65, §§A153,C15 (AFF).

§6662. Extinguishment of mineral rights

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Mineral" means all naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel and water. [PL 1983, c. 189 (NEW).]

B. "Mineral interest" means the interest in minerals which is created by an instrument transferring by grant, assignment, lease or otherwise, any interest in any mineral. [PL 1983, c. 189 (NEW).]

C. "Use of the mineral interest" means:

(1) Payment of rents or royalties for the option or exercise of mineral rights;

(2) Payment of any excise tax under Title 36, sections 2851 to 2865;

(3) Extraction of minerals from the ground in quantities in excess of that necessary to conduct exploratory activity; or

(4) Filing of a statement of claim under subsection 3. [PL 1983, c. 189 (NEW).]

[PL 1983, c. 189 (NEW).]

2. Claim. A person claiming an estate in a mineral interest may maintain an action, as provided in sections 6651 to 6654 or sections 6655 to 6657, without the necessity of showing 4 years of possession next prior to filing of that complaint, provided that the person is the fee simple owner of the land which is subject to that interest.

[PL 1983, c. 189 (NEW).]

3. Assertion of claim. An owner, assignee or lessee of a mineral interest may file a statement of claim with the registrar of deeds of the county in which the land subject to the mineral interest is located. The claim shall contain his name and address, a description of the land that is subject to that interest and a legal description of the mineral interest.

[PL 1983, c. 189 (NEW).]

4. Court; finding. The court, in an action brought under subsection 2, shall find that the mineral interest is extinguished and shall order that title to the mineral interest is in the complainant if:

A. The owner, assignee or lessee of the mineral interest has failed to make use of the mineral interest during a period of 50 consecutive years next prior to the filing of the complaint; and [PL 1983, c. 189 (NEW).]

B. Two years have passed since notice of the complaint under subsection 2 was served and the owner, assignee or lessee of the mineral interest has not filed a statement of claim under subsection 3 during that period. [PL 1983, c. 189 (NEW).]

[PL 1983, c. 189 (NEW).]

SECTION HISTORY

PL 1983, c. 189 (NEW).

§6663. Claim of prescriptive easement over abandoned way

(REPEALED)

SECTION HISTORY

PL 1993, c. 677, §1 (NEW). PL 1995, c. 244, §1 (RP).

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