

This Act is consolidated to 30 Novembre 2016.

LAND TITLE INQUIRY ACT
[RSBC 1996] CHAPTER 251

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Right to judicial investigation of fee simple title

1 On petition to the Supreme Court, a person claiming to be the owner of an estate in fee simple in land or a trustee for the sale of the fee simple is entitled, whether the person has the legal estate or not, and whether the person's title is subject or not to any charges or encumbrances to have the title judicially investigated and its validity declared by the court.

Investigation of interest in land

2 (1) A person who has an estate or interest in land in British Columbia may apply to the court for the investigation of the person's title and a declaration of its validity.

(2) The court may grant or refuse the application for the investigation at any stage of the proceedings, subject to appeal like any other decision.

Investigation of title of government to land

3 The Attorney General may apply for an investigation of the title of the government to any land in British Columbia, and for a declaration of its validity.

Application proceedings

4 The application must be made to the Supreme Court by petition and must be supported by the following particulars:

- (a) the title deeds, if any, and certificates of title and evidences of title relating to the land that are in the possession or power of the applicant;
- (b) a certified copy of all recorded instruments affecting the land, or of all since the last judicial declaration, if any, under this Act was given, up to the time of the registering of the certificate of filing the petition as provided for by section 7;
- (c) a certificate of the registrar of titles as to any charges, liens, judgments or certificates of pending litigation which have been registered in the land title office against the land;
- (d) a concise statement of the facts, which do not appear in the produced documents, as are necessary to make out the title;
- (e) proof of any facts which are required to be proved in order to make out the title, and which are not established by the other produced documents, unless the court dispenses with the proof until a future stage of the investigation;
- (f) an affidavit by the person whose title is to be investigated, and a certificate of one of that person's counsel to the effect later mentioned in this Act, unless the court sees fit to dispense with them;
- (g) a schedule of the particulars produced under this section.

Affidavit of applicant

5 (1) The affidavit of the person whose title is to be investigated must state the following:

- (a) that to the best of the person's knowledge and belief the person is the owner of the estate or interest which is claimed by the petition, subject only to any charges and encumbrances set out in the petition or in the schedule, or that there is no charge or encumbrance affecting the land;
- (b) that the deeds and evidence of title which the person produces, and of which a list is contained in the schedule produced under section 4, are all the title deeds and evidence of title relating to the land that are in the person's possession or power;
- (c) that the person is not aware of the existence of any claim adverse to or inconsistent with the person's own to any part of the land or to any interest in it, or if the person is aware of an adverse claim, the person must set it out, and depose that the person is not aware of any others;
- (d) whether any one is in possession of the land, and under what claim, right or title;
- (e) that to the best of the deponent's knowledge, information and belief the affidavit, and the other papers produced with it, fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect it or any part of it, or give any right as against the applicant.

(2) The affidavit may be dispensed with or made by some other person instead of the person whose title is to be investigated, or partly by one person and partly by another, at the discretion of the court, and in that case the affidavit must be modified accordingly.

Certificate of counsel

6 The certificate of counsel must state that

- (a) counsel has investigated the title and believes the party to be the owner of the estate which the petition claims in the land in question, subject only to any charges or encumbrances that may be set out in the schedule to the petition or that counsel so believes, subject to any condition, qualification or exemption to be set out in the certificate, and
- (b) counsel has conferred with the deponent on the subject of the various matters set out in the affidavit and believes the affidavit to be true.

Registration in land title office

7 A certificate by the registrar of the court, showing that the petition has been filed, must be registered in the land title office of the land title district in which the land in respect of which the petition is filed is located.

Evidence

8 The court in investigating the title may receive and act on one or more of the following:

- (a) evidence that is receivable by the Supreme Court on a question of title;
- (b) evidence which the practice of English conveyancers authorizes to be received on the investigation of a title out of court;

(c) other evidence, whether it is or is not receivable or sufficient in point of strict law, or according to the practice of English conveyancers, as long as it satisfies the court of the truth of the facts intended to be made out by it.

Form of evidence

9 The proof required may be by or in the form of affidavits or certificates, or may be given orally, or may be in any other manner or form that is satisfactory to the court.

Payment of taxes required

10 Before a declaration of title is granted, satisfactory evidence must be given by certificate, affidavit or otherwise

(a) that a copy of the petition and supporting documents have been served on the Attorney General not less than 4 weeks

(i) before the commencement of the judicial investigation under section 1, or

(ii) before the hearing of the application under section 2, and

(b) that all taxes, rates and assessments for which the land is liable have been paid, or that all except those for the current year have been paid.

Further evidence

11 If the court is not satisfied with the evidence of title produced in the first instance, it must give a reasonable opportunity of producing further evidence, or of removing defects in the evidence produced.

Notice of application and decision to be published before declaration

12 (1) Before giving a declaration of title under this Act, the court must direct to be published in the Gazette, and, if it sees fit, in any other newspaper, in the form and for the period the court thinks expedient, a notice of the application having been made and of the order or decision of the court.

(2) The declaration of title must not be signed or executed until after the expiration of at least 4 weeks from the first publication of the notice, or another period the court may appoint.

Publication sufficient notice

13 If the court is satisfied respecting the title and considers that a declaration of title under this Act can safely be granted without any other notice of application than the published notice so required, it must grant the declaration of title accordingly.

Notice to adverse claimants

14 If there appears to be any claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the court must direct the notice it considers necessary to be mailed to or served on the adverse claimant or that person's solicitor.

Other notice

15 In all cases the court may require further publication to take place, or other notice to be mailed or served that it considers necessary before granting the certificate.

Adverse claimant to file statement of his claim

16 A person with an adverse claim or a claim not recognized in the applicant's petition, may, at any time before the declaration of title is granted, file a short statement of the claim, verified by an affidavit to be filed with it, and notice of filing must be served on the petitioner or the petitioner's solicitor.

Contested title

17 In case of a contest, the court may do one or more of the following as the circumstances of each case render just or expedient:

(a) decide the question of title on the evidence before it;

(b) direct any issue of fact to be tried by a jury;

(c) refer any matter to a mode of investigation which is usual in other cases or which it considers expedient, and defer granting the declaration until afterwards.

Security for costs

18 The court may, at any stage of the proceedings, order security for costs to be given by the petitioner or by any person making any adverse claim.

Costs

19 The court may order costs to be paid by or to any person party to a proceeding under this Act, and may give directions as to the fund out of which any costs must be paid.

Withdrawal of application

20 The petitioner may by leave of the court withdraw the application at any time before final adjudication, on payment of all costs incurred in the investigation, either by the petitioner or by any adverse claimant.

Court may refer petition to referee

21 (1) In order to expedite investigations, but subject to the Supreme Court Civil Rules, the court, if it sees fit, may refer a petition presented under this Act to

(a) a registrar of titles,

(b) an officer of the court, or

(c) counsel named by the court.

(2) The referee must proceed as the court would do under this Act had the reference not been made, and has the same powers.

(3) The court may also refer any title to counsel named by the court for a preliminary report or examination, and may call for the assistance of counsel in any other way and for any other purpose that may tend to the dispatch of business under this Act.

Exceptions to claim of title

22 Every claim of title under this Act is presumed to be subject to the conditions, exceptions and reservations enumerated or referred to in section 23 (2) (a) to (j) of the Land Title Act.

Declaration of title

23 (1) An order of the court containing a declaration of title under this Act must be signed by one of the judges and by a district registrar of the Supreme Court under the seal of the court, and must contain the following declaration:

This Court declares that under the authority of the Land Title Inquiry Act, A.B. is the legal and beneficial owner in fee simple in possession [or as the case may be] of [here describe the property], subject to the conditions, exceptions and reservations enumerated or referred to in section 23 (2) (a) to (j), of the Land Title Act, and to [specifying either by reference to a schedule or otherwise any of the charges or encumbrances, exceptions or qualifications to which the title of A.B. is subject], but free from all other rights, interests, claims and demands.

(2) The court may give one declaration of title, comprising all the land mentioned in the petition, or may give separate declarations as to title of separate parts of the land.

Order for possession

24 (1) If a petition is filed under this Act, an objection to it must not be allowed on the ground that the petitioner should first have brought an action.

(2) If it appears on the determination of the investigation that the petitioner is entitled to the possession of the land the title to which is sought to be quieted under this Act, the petitioner may obtain an order against the respondent for the delivery of possession, and writs of execution must issue accordingly.

Death or change of interest

25 (1) Proceedings under this Act do not abate and are not suspended by any death or transmission or change of interest.

(2) In such event the court may require notices to be given to persons becoming interested, or may make any order for discontinuing, suspending or carrying on the proceedings, or otherwise as may be just.

Informalities not to invalidate proceedings

26 No petition, order, affidavit, declaration, registration or other proceeding under this Act is invalid because of any informality or technical irregularity or of any mistake not affecting the substantial justice of the proceeding.

Registration and effect of declaration

27 (1) The order containing the declaration of title, or a certified copy of it, must be deposited for registration in the land title office of the land title district in which the land in respect of which the declaration of title is given is located, accompanied by an application for registration.

(2) On receiving the application, the registrar of titles must register the indefeasible title to the land in the name of the owner as declared in the declaration.

(3) The order containing the declaration of title, when sealed, signed and registered

(a) is conclusive, and the title declared in it must be considered to be the true and correct title from the date of the declaration, as regards the government and all other persons, subject only to charges or encumbrances, conditions, exceptions and reservations mentioned or referred to in it, or in its schedule, and

(b) is conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given and done before the granting of the declaration has been made, given and done by the proper parties.

Certified copy of declaration to be admissible evidence

28 After a declaration of title is registered, a copy of the declaration, purporting to be signed and certified as a copy by the registrar of titles, and given under the registrar's official seal, is admissible evidence of the declaration for all purposes, without further evidence of the copy, and without accounting for the nonproduction of the declaration.

Declaration obtained by fraud or falsehood

29 (1) If in the course of any proceeding before the court under this Act any person acting either as principal or agent knowingly and with intent to deceive makes or assists or joins in or is party to the making of, any material false statement or representation, or suppresses, conceals or assists or joins in or is party to the suppression, withholding or concealing from the court of any material document, fact or matter of information, any order or declaration of title obtained by means of such fraud or falsehood is null and void for or against all persons other than a purchaser for valuable consideration without notice.

(2) No proceeding or conviction under this section affects any remedy which any person aggrieved by the contravention may be entitled to against the person who has committed it.

Construction of Act

30 This Act must be construed and carried out to facilitate, as much as possible, the obtaining of perfect titles by the owners of estates in land, through the simplest machinery, at the smallest expense and in the shortest time, consistent with reasonable prudence in reference to the rights or claims of other persons.

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