

Adverse possession in the state of florida essay example

[Law](#), [Criminal Justice](#)



Introduction

Adverse possession is an open and notorious possession of a property by a fictitious or obvious entitlement. In the situation where an unfamiliar person constructs a building in your property and meets the requirements under Florida laws of adverse possession; an individual occupying realty disobeys a directive to leave the estate as individually communicated of the trespassing by the titleholder of the estate, or if the trespasser causes property damage, then the individual can be charged of a first degree misdemeanor [Florida Statutes section 810. 09]. An adverse possession lawsuit can be filed by the charged trespassing individual in this situation.

Definition

Adverse Possession is a process that allows the legal takeover of the title to real property by possession for a statutory period under certain conditions. An individual who takes possession of a property by a set statute of limitations is known as an adverse possessor. The procedure has been challenged in certain quarters of the legal fraternity on the validity of authorizing such possessions. It deprives the actual owner off property that is legally theirs. Properties that are usually inherited and were once part of a large estate usually come into conflict.

The steps necessary to take adverse possession

(1) The land must be in possession of the individual irrespective of how scandalously or inappropriate it would seem. It should be viewed as an obstruction by the original title owner of the property. It should also be in a

conflictingly obvious manner so that it affects the titleholder's right to the property.

(2) The adverse possessor should have valid portions of a deed or receipts to paying taxes and other utilities on the property in order to file for such a suit.

However, paying the taxes alone is inadequate to determine whether the property had been a case of adverse possession (see *Bentz v. McDaniel*, 872 So. 2d 978, 983 [Fla. 5th DCA 2004]). An adverse possessor should have contributed to the development of the property by either cultivating it or by improving the landscape through maintenance work. Moreover, there should be indications that the adverse possessor protected the property by raising a fence or by building a wall around the property; although a fence would suffice (see *Mullins v. Culbert*, 898 So. 2d 1149, 1151–1152 [Fla. 2005]).

(3) The adverse possessor should have stayed on the property for a minimum duration of seven years in order to file the suit.

Defenses a property owner can exercise during adverse possession

(a) Property owners can counter squatters by availing court orders and writs of possession to evict adverse possessors from their properties. They can also take the assistance of the local Sheriff's office.

(b) Property owners can enact statutes that ensure that adverse possessors pay for the cost of eviction; especially if they are unwilling to leave the property after being served with a trespass caution. They however, cannot be held accountable for any costs incurred when the owners issued the cautionary advice.

(c) It should be required by the adverse possessors to provide physical evidence of the condition of the property like pictures taken before they leave.

Conclusion

Footnotes

Bentz v. McDaniel, 872 So. 2d 978, 983 [Fla. 5th DCA 2004].

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