SHORT TITLE: Property; relating to real actions and acquisition of property; deleting certain methods of acquisition; repealers; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 82 By: Shurden

AS INTRODUCED

An Act relating to property; amending 12 O.S. 1991, Section 93, which relates to limitations of actions involving real property and 60 O.S. 1991, Sections 331 and 332, which relate to acquisition of real property; clarifying language; abolishing common law doctrine of adverse possession; changing certain acquired benefit; repealing 60 O.S. 1991, Section 333, which relates to acquisition of title by prescription; repealing conflicting laws; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 93, is amended to read as follows:

Section 93. A. Actions for the recovery of real property, or for the determination of any adverse right or interest therein, can only be brought within the periods hereinafter prescribed, after the cause of action shall have accrued, and at no other time thereafter:

~~(1)~~ 1. An action for the recovery of real property sold on execution, or for the recovery of real estate partitioned by judgment in kind, or sold, or conveyed pursuant to partition proceedings, or other judicial sale, or an action for the recovery of real estate distributed under decree of a district court in proceedings for the administration or probate ~~proceedings~~ of an estate, when brought by or on behalf of the execution debtor or

former owner, or his or their heirs, or any person claiming under him or them by title acquired after the date of the judgment or by any person claiming to be an heir or devisee of the decedent in whose estate such decree was rendered, or claiming under, as successor in interest, any such heir or devisee, within five (5) years after the date of the recording of the deed made in pursuance of the sale or proceeding, or within five (5) years after the date of the entry of the final judgment of partition in kind where no sale is had in the partition proceedings; or within five (5) years after the recording of the decree of distribution rendered by the district court in an administration or probate proceeding; provided, however, that where any such action pertains to real estate distributed under the decree of a district court in ~~administration or probate~~ proceedings for the administration or probate of an estate and would at the passage of this act be barred by the terms hereof, such action may be brought within one (1) year after the passage of this act; this proviso shall not be construed to revive any action barred by paragraph 4 of this section.

~~(2)~~ 2. An action for the recovery of real property sold by executors, administrators, or guardians, upon an order or judgment of a court directing such sale, brought by the heirs or devisees of the deceased person, or the ward of his guardian, or any person claiming under any or either of them, by the title acquired after the date of judgment or order, within five (5) years after the date of recording of the deed made in pursuance of the sale.

~~(3)~~ 3. An action for the recovery of real property sold for taxes, within five (5) years after the date of the recording of the tax deed, except where lands exempt from taxation by reason of any Act of the Congress of the United States of America have been sold for taxes, in which case there shall be no limitation; provided, nothing herein shall be construed as reviving any cause of action for recovery of real property heretofore barred ~~nor as divesting any~~

~~interest acquired by adverse possession~~ prior to the effective date hereof.

~~(4)~~ 4. An action for the recovery of real property not hereinbefore provided for, within fifteen (15) years.

~~(5)~~ 5. An action for the forcible entry and detention or forcible detention only of real property, within two (2) years.

~~(6)~~ 6. Numbered paragraphs 1, 2, and 3 shall be fully operative regardless of whether the deed or judgment or the precedent action or proceeding upon which such deed or judgment is based is void or voidable in whole or in part, for any reason, jurisdictional or otherwise; provided, that this paragraph shall not be applied so as to bar causes of action which have heretofore accrued, until the expiration of one (1) year from and after its effective date.

B. None of the provisions of subsection A of this section shall be construed as a grant of title to real property by adverse possession. The common law doctrine of adverse possession is hereby abolished.

C. The abrogation of the common law doctrine of adverse possession contained in subsection B of this section shall not apply to any title to real property acquired by adverse possession prior to the effective date of this act.

SECTION 2. AMENDATORY 60 O.S. 1991, Section 331, is amended to read as follows:

Section 331. Property is acquired by:

1. ~~Occupancy.~~

~~2.~~ Accession~~.~~;

~~3.~~ 2. Transfer~~.~~;

~~4.~~ 3. Will; or~~,~~

~~5.~~ 4. Succession.

SECTION 3. AMENDATORY 60 O.S. 1991, Section 332, is amended to read as follows:

Section 332. Occupancy for any period confers a ~~title~~ right of possession sufficient against all except the state, and those who have title by ~~prescription,~~ accession, transfer, will or succession.

SECTION 4. REPEALER 60 O.S. 1991, Section 333, is hereby repealed.

SECTION 5. All laws or parts of laws in conflict herewith are hereby repealed.

SECTION 6. This act shall become effective September 1, 1993.

44-1-0016 KS