

Real Property Law Section Blog

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MAY 27, 2011

Adverse Possession

Under Real Property Actions and Proceedings Law ("RPAPL"), Section 501 ("Adverse possession; defined"), as amended effective July 7, 2008, an adverse possessor may gain title to occupied real property if the occupancy has been "adverse, under claim of right, open and notorious, continuous, exclusive and actual". "Claim of right" is defined to mean "a reasonable basis for the belief that the property belongs to the adverse possessor or property owner, as the case may be". In reversing the ruling of the Supreme Court, Kings County, which dismissed the complaint in which the Plaintiffs claimed title by adverse possession, the Appellate Division, Second Department, found that "the plaintiffs established a reasonable basis for their belief that they owned the disputed property by submitting an affidavit of [one of the Plaintiffs] stating that they were advised that the disputed parcel was a part of the property they purchased from [HUD] in 1974". *Calder v. 731 Bergan, LLC*, decided April 12, 2011, is reported at 920 N.Y.S. 2d 413.

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