

Bond Case Briefs

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WATER LAW - VIRGINIA

Ferguson v. Stokes

Supreme Court of Virginia - April 17, 2014 - S.E.2d - 2014 WL 1499599

Owner of property adjacent to island and causeway and who acquired riparian rights appurtenant to shoreline filed ejectment action against occupier of island, alleging that his oyster house on island was located within riparian zone. Occupier filed plea in bar of statute of limitations. The Circuit Court dismissed plea as barred by prior settlement agreement between owner and occupier, and entered order stating that occupier did not own any shoreline property, that he had no riparian rights, and that bottomlands under island and causeway belonged to Commonwealth. Occupier appealed.

The Supreme Court of Virginia held that:

- Occupier's plea in bar of statute of limitations as defense to property owner's ejectment action was equivalent of claim for adverse possession that fell within scope of prior settlement agreement with owner;
- Owner's riparian rights appurtenant to shoreline that were vested in owner by court order could not be divested by subsequent enactment of statute governing title to lands that were once state-owned bottomlands acquired by good-faith purchasers; and
- Occupier's oyster house was fixture attached to realty, not personalty.