

## ANCSA Land & Adverse Possession

Notebook: Title

Created: 11/18/2014 7:21 AM

Updated: 11/18/2014 7:22 AM

URL: <https://govt.westlaw.com/akcases/Document/I0a469d02f55711d9b386b232635db9...>

### Snook v. Bowers 11.9.00 - 12 P.3d 771 - Alaska Supreme Court

**2. The trial court correctly decided that the Bowerses gained title to the remaining interest in Lot 82 by  adverse possession  under color of title.**

\*6 Finally, the trial court decided that the Bowerses had gained title to the remaining one-third interest in Lot 82—that portion which was originally owned by Russell Snook, Sr.'s successors in interest—by  adverse possession  under color of title. Snook argues that this decision was erroneous as well.

**a. Lot 82 was not exempt from  adverse possession  as Alaska Native Claims Settlement Act ( ANCSA ) land.**

\*6 [18] As a preliminary matter, Snook argues that the Bowerses “cannot obtain the Subject Property through  adverse possession  because it is  ANCSA  land.” He cites 43 U.S.C. § 1636(d)(1)(A) to support this contention.

\*6 This statute provides that “all land and interests in land conveyed in Alaska by the Federal Government pursuant to [ ANCSA ] to a Native individual or Native Corporation ... shall be exempt, so long as such land and interests are not developed or leased or sold to third parties[,] from ...  adverse possession .

\*780 <sup>16</sup> It is not disputed that Lot 82 is “ ANCSA  land.” However, Lot 82 was “developed” within the meaning of the statute, and therefore Snook's argument fails.

\*6 We dealt with the question of when  ANCSA  land is “developed” at length in *Kenai Peninsula Borough v. Cook Inlet Region, Inc.* <sup>17</sup> After examining the relevant statutory language and legislative history, we held that acts like those taken regarding Lot 82 amounted to “ development ”:

\*7 The definition of developed in [ ANCSA ] is broad enough to include subdivided land which is ready for sale. Subdividing is legally a purposeful modification of property, for it enables separate parts of the property to be sold. Similarly, as a sale of property is a use, a subdivision which suffices to permit sales effects a gainful and productive condition. <sup>18</sup>

\*7 Here, Lot 82 was part of a subdivision; Shaan–Seet recorded the Port St.

Nicholas subdivision in 1983. Therefore, as of that date, Lot 82 was “developed” for  **ANCSA**  purposes and not exempt from  **adverse possession** . The trial court's ruling on this score was accordingly free of error.