WEST VIRGINIA CODE: §42-1-9

§42-1-9. Establishment and recordation of descent.

Where any person having title to an estate of inheritance in real estate within this state has died intestate, or testate, without having devised his real estate, his heirs, or any of them, or any person deriving title from or through such heirs, or any of them, may at any time within twenty years after the death of such person present to the circuit court of the county where such real estate, or any part thereof, is situated, a petition, under oath, describing such real estate, setting forth the interest or share of the petitioner and of each other heir of the decedent in such real estate, and praying for a decree establishing the right of inheritance thereto, and that all the heirs of the decedent, and other parties in interest may be summoned to show cause why the prayer of the petition should not be granted. There shall also be set out in the petition and be made parties, the heirs or devisees of any person who inherited from the decedent but who has died before the proceeding is instituted, and any purchasers or successors in title from such a person, and any holders of liens on the whole property or on the share of any person interested in the property. Upon the presentation of such petition a rule to show cause, returnable within such time as the court shall direct, shall be issued accordingly, except in a case where all the interested parties unite in such petition or appear and waive service of the rule. Guardians ad litem for all infants, convicts in confinement and insane persons, who may be parties to such proceeding, shall be appointed and attend, and nonresident persons may be proceeded against by order of publication, as in other cases, upon the return of the rule to show cause the circuit court shall hear the allegations and proofs of the parties and determine all the issues raised. The petitioner shall establish the fact of the decedent's death; the place of his residence at the time of his death; his will or intestacy, either generally, or as to the real estate in question; the heirs entitled to inherit the real estate in question; the name, age, residence and relationship to the decedent, of each; and the interest or share of each heir or other person in such real estate. The court, when these facts are established, shall make a decree describing the real estate, and declaring that the right of inheritance thereto has been established to the court's satisfaction, in accordance with the facts which shall be recited in the decree, and that at the death of the testator or intestate certain persons, who shall be named in the decree, were entitled to take the property in certain proportions, which shall also be set out in the decree. A certified copy of such decree shall be recorded in the office of the clerk of the county court of the county or counties in which such real estate is situated, in the record of deeds, and indexed in the general index of deeds in the name of the decedent as if grantor, and in the name of each heir as if grantee, and the fees for such recording and indexing shall be the same as for deeds. From the time when such copy is so recorded, the decree, or the record thereof, shall be conclusive evidence of the facts so declared to be established thereby against all parties to such proceeding.

An appeal from such decree shall lie to the Supreme Court of Appeals as in other cases, and any person under disability or proceeded against by publication and not appearing may have

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the matter reheard as in other cases.

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