



CHAPTER 41

ARTICLE 7 - TENANCY IN COMMON

N.C.G.S. § 41-89.

Adverse possession by a cotenant.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	No amendment history on record	21 September 2026, 02:02 UTC	56f769dd127e7d16f2c88bed - b9d0a6a04f11c02c909bcd85 - 126c3b79d51edf1a

§ 41-89(a)

A cotenant without color of title may acquire title to another cotenant's interest in the property by 20 years' adverse possession as provided by G.S. 1-40, subject to the following:

- (1) Possession of the property by the cotenant is not considered adverse until there is an actual ouster or constructive ouster of the other cotenant.
- (2) If a cotenant purports to convey the whole estate, all of the following apply:
 - a.The grantee receives only the grantor's interest.
 - b.The instrument of conveyance is not color of title as against the grantor's cotenant.
 - c.Adverse possession by the grantee for 20 years is required to bar entry of the grantor's cotenant.

§ 41-89(b)

A cotenant with color of title may acquire title to the other cotenant's interest in the property by seven years' adverse possession as provided by G.S. 1-38, subject to the following:

- (1) Possession of the property by the cotenant is not considered adverse until there is an actual ouster of the other cotenant.
- (2) If a cotenant purports to convey the whole estate, all of the following apply:
 - a.The grantee receives only the grantor's interest.
 - b.The instrument of conveyance is not color of title against the grantor's cotenant.

c.Seven years' adverse possession by the grantee under the deed will not ripen into title to the whole estate.

(3) If a grantee receives a deed purporting to convey the whole estate in a judicial proceeding to sell the interest of a cotenant, including a sale for partition, a tax foreclosure, or a sale to pay debts, the deed is deemed color of title and the grantee can acquire title as against all other cotenants by seven years' adverse possession.

§ 41-89(c)

A tenant in common claiming adverse possession must prove ouster or constructive ouster by clear and convincing evidence. (2024-47, s. 1.)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS II
2 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 1-40	(a)	"years' adverse possession as provided by"
G.S. 1-38	(b)	"years' adverse possession as provided by"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 41-89 (2026).

PINPOINT
N.C. Gen. Stat. § 41-89(a) (2026).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

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