

G.S. 1A-1, RULE 70

JUNE 2026



G.S. 1A-1, RULE 70

Rule 70. Judgment for specific acts; vesting title.

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the judge may direct the act to be done at the cost of the disobedient party by some other person appointed by the judge and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The judge may also in proper cases adjudge the party in contempt. If real or personal property is within the State, the judge in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to execution upon application to the clerk upon payment of the necessary fees.



G.S. 1-228

§1-228. Regarded as a deed and registered.

Every judgment, in which the transfer of title is so declared, shall be regarded as a deed of conveyance, executed in due form and by capable persons, notwithstanding the want of capacity in any person ordered to convey, and shall be registered in the proper county, under the rules and regulations prescribed for conveyances of similar property executed by the party. The party desiring registration of such judgment must produce to the register a copy thereof, certified by the clerk of the court in which it is enrolled, under the seal of the court, and the register shall record both the judgment and certificate. All laws which are passed for extending the time for registration of deeds include such judgments, provided the conveyance, if actually executed, would be so included.



RULE 70

- Used to enforce judgments requiring someone to perform a specific act
 - Equitable Distribution/property division
 - Specific Performance



RULE 70

- In domestic cases with a claim for equitable distribution, courts enter orders and judgments that divide the marital property between spouses.
- To effectuate a division of property, sometimes real or personal property, or an interest therein, needs to be transferred from one spouse to another to carry out the division in the judgment or order.



RULE 70

How does the transfer occur?

The court can

- 1) enter an order transferring an interest in real or personal property and title (order is transfer)

or

- 2) order a party to transfer the title.

G.S. 50-20(g), G.S. 1-228, and G.S. 1A-1, Rule 70.



RULE 70

1) Court order or judgment transfers title or interest

□ authorized by G.S. 1-228 and G.S. 1A-1, Rule 70

- **judgment**, in which the transfer of title for real property is so declared, shall be regarded as a **deed of conveyance**
- order must describe the land with sufficient detail (e.g., legal description)
- certified copy under seal of court is registered in office of Register of Deeds by party in county where property is located (Register of Deeds)
- North Carolina property



RULE 70

- 2) Court order or judgment directs a party to transfer title or to specifically execute a document to effectuate transfer
- real property deed
 - vehicle title



Breaking Down Rule 70- Picking the lane

In lieu of conveyance,
judgment divesting
title of any party and
vesting it in others



Judgment has the
effect of a conveyance
(G.S. 1A-1, Rule 70)



Party files the
certified judgment
with the register of
deeds (G.S. 1-228)



Judgment is regarded
as a deed of
conveyance (G.S. 1-
228)

OR

Judgment directs a party
to perform an act (i.e.,
sign a deed) within a
specific timeframe



Party fails to comply
within the time specified
and the matter is brought
back before the court



Judge may appoint
another person to do the
act (i.e., clerk) which will
be as if the party had
done it



Court finds that the party
did not comply with the
order and perform the act
within the timeframe

Contempt
may also be a
remedy to
enforce

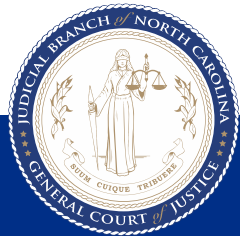


RULE 70-PITFALLS

Oral Directive Not Enforceable

Dabbondanza v. Hansley, 249 N.C. App. 18, 791 S.E.2d 116 (2016).

- Equitable Distribution order directed Husband to convey his interest in real property to Wife.
- Husband failed to execute the deed and the Court, at a motion hearing, orally directed the Clerk to execute a deed pursuant to Rule 70, which the clerk did.
- “Oral directive was not enforceable and that the Clerk, as a result, lacked authority to convey Husband’s interest...”
- Rule 58 applies to orders as well as judgments in civil cases (Onslow v. Moore, 129 N.C. App. 376, 388, 499 S.E. 2d 780, 788 (1998).)
- An order rendered in open court is not enforceable until it is entered pursuant to Rule 58.
- 2014 order reducing 2008 directive *nunc pro tunc* to 2007 ED order- COA said NO *nunc pro tunc*



RULE 70-PITFALLS

Sufficient Language to Transfer Title

- “It is essential to the transfer of land that the land be described with sufficient definiteness and certainty to be located and distinguished from other land.” *Wade v. Wade*, 72 N.C. App. 372, 325 S.E.2d 260, *review denied*, 313 N.C. 612, 330 S.E.2d 616 (1985).
- Court held the following sufficient to transfer title from one spouse to another spouse:
 - “[t]hat the defendant is hereby divested of all right, title and interest in that approximately 27 acres of land more particularly described in Deed Book 2609, Page 14, Wake County Registry, and a copy of this Judgment shall be recorded among the records in the Wake County Registry showing a conveyance from Raymond C. Ellis, III to Cathleen Anne Rubens.” *Ellis v. Ellis*, 68 N.C. App. 634, 315 S.E.2d 526 (1984).



RULE 70-PITFALLS

Party's failure to timely comply is necessary precedent to action by Judge

Sturgill v. Sturgill, 49 N.C. App. 580, 272 S.E.2d 423 (1980).

- Rule 70 “require[s] that he first fail to comply with a judgment within the time specified before authorizing the judge to proceed thereunder.”



RULE 70-PITFALLS

Springing Rule 70 Orders & Due Process

- “judgment directs a party to execute a conveyance of land or to deliver deeds.... and the party fails to comply within the time specified, the judge may direct the acts to be done...by some other person appointed by the judge...” G.S. 1A-1, Rule 70.
- Court is the fact finder in determining whether the party complied within the time specified.



RULE 70-PITFALLS

Statute of Limitations

- Is the request for an order under Rule 70 to enforce an equitable distribution judgment barred by the statute of limitations?
 - In *Welch*, the court of appeals held that a request for an order under Rule 70 to allow another person to execute documents that would have effectuated the transfer was barred because the enforcement motions had been filed more than 10 years after the entry of the judgment. *Welch v. Welch*, 278 N.C. App. 375, 859 S.E. 2d 646 (2021) (**unpublished**)

G.S. 1-47.



CONSIDERATIONS

Judgments for Specific Act (underlying order)

- Specific act to be done by the party
- Time Frame
- Judge determines non-compliance

Appointment under Rule 70 after determination of non-compliance

- Specify the person being appointed
- Specify the Act to be done by the appointed person, be specific
 - Specify the type of deed if real property (e.g. quitclaim, general warranty, etc.)
 - Legal description of the property
- Clerk cannot sign under penalty of perjury when no personal knowledge (e.g., passport applications)



EXAMPLE

Rule 70 Provisions. That should the Defendant fail to execute any documents necessary for the sale of the residence under the circumstances of this case, it is appropriate and the Court or the Clerk of Superior Court has the authority to transfer title of property pursuant to G.S. 50-20(g), G.S. 1A-1, Rule 70, and/or G.S. 1-228, that this Judgment should constitute a divestiture of title and that the Clerk of Superior Court or her duly authorized deputy or assistant should be appointed to execute any and all documents necessary to effect the transfer of property herein.



EXAMPLE

The Defendant shall be divested of all rights, title, and interest in the property located at 123 Acme Drive, Raleighwood, NC 12345 and the same shall be fully conveyed to the Plaintiff. Plaintiff shall be allowed to present a deed to the Court to be signed and filed and recorded with the Best County Register of Deeds and any other public registry so as to convey all rights, title, and interest in the property at 123 Acme Drive, Raleighwood, NC 12345 to the Plaintiff as his sole property in fee simple, as contemplated by the parties' Equitable Distribution Order.



EXAMPLE

That pursuant to Rule 70 of the North Carolina Rules of Civil Procedure, that the Clerk of Court is hereby authorized to and shall sign any passport or travel documents necessary for Defendant to travel with the minor children. (Defendant has sole custody.)

US Department of State- minor passport applications

<https://travel.state.gov/en/passports/apply/child/under-16.html#accordion-ac58484af8-item-b840848e30>

Contempt Action



EXAMPLE

1. Defendant is hereby divested of his interest in the following tracts or parcels of land and Plaintiff is hereby invested with the right, title, and interest in the following tracts or parcels of land:

.50 acres on ABC lane in Best County, acquired in deed book 1400, page 200, and with the following legal description:

....

2. The Clerk of Superior Court of Best County, North Carolina shall execute a non-warranty deed on behalf of Defendant transferring his interest in the following tracts or parcels of land to the Plaintiff:

.50 acres on ABC lane in Best County, acquired in deed book 1400, page 200, and with the following legal description:



EXAMPLE

FINDINGS OF FACT

1. On January 2, 2026 an order was entered by this Court directing the Defendant to execute a quit claim deed conveying title of the subject property located at 1234 Baker Street, Acme, N.C. and being more particularly described in Acme County Register of Deeds at Book 10472, Page 19, Acme County Registry to the Plaintiff within 10 calendar days of being mailed a deed for said purpose.
2. On February 23, 2026, Plaintiff's attorney mailed the deed to the Defendant for the Defendant's signature and to return for recording.
3. On April 25, 2026, Plaintiff filed a motion to show cause and enforce the order and requested the court to hold Defendant in contempt for her failure to execute a deed as ordered or further appoint the Clerk of Superior Court or some other suitable person to execute the subject deed pursuant to N.C. Gen. Stat. 1A-1, Rule 70.
4. As of the date of this hearing, the Defendant has refused and failed to execute the above-described deed conveying title to the Subject Property to the Plaintiff as ordered by this Court on January 2, 2026.



EXAMPLE

IT IS FURTHER ORDERED THAT:

Pursuant to N.C. Gen. Stat. 1A-1, Rule 70, the Acme County Clerk of Superior Court is appointed and when presented with a proper deed in accordance with this order, shall execute a quit claim deed conveying title of the subject property located at 1234 Baker Street, Acme, N.C. and being more particularly described in Acme County Register of Deeds at Book 10472, Page 19, Acme County Registry to the Plaintiff.





THANK YOU

Antares Holloway, Assistant Legal Counsel
NCAOC Office of General Counsel