

6-20/580.11 Real Property Defined

The term “real property” includes land and permanent buildings. ([CC 14\(b\)\(2\)](#), [CCP 17\(b\)\(8\)\(A\)](#), [680.320](#)) Things which are affixed to land, or incidental or appurtenant thereto, are generally considered as part of the real estate. ([CC 658](#), [659](#), [660](#), [662](#)) Land also embraces all titles, legal or equitable, perfect or imperfect, including such rights as lie in contract whether executory or executed. Therefore, any interest in land, legal or equitable, is subject to attachment or execution, levy and sale. ([Lynch v. Cunningham, 131 CA 164](#))

The holder of a mortgage has only a lien on the mortgaged premises therefore, a mortgage creates no attachable interest in such realty that could be levied upon by creditors of the mortgage holder. (McGurren v. Garrity, 68 C 566 - this cite does not have an electronic copy (1886))

A trust created for the sole purpose of selling the real property and paying the proceeds from such sale to the beneficiary gives the beneficiary no interest in the real property, but only the right to receive money from the trustee. However, the trustee of such a trust may be garnisheed. ([Houghton v. Pacific Southwest Trust, 111 CA 509](#))
