Gerald C. Mann
ATTORNEY GENERAL

THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS

Honorable Albert J. Hutson, Jr.
County Attorney
Trinity County
Groveton, Texas

Opinion No. O-1696
Re: Judgment lien -- redemption in part by a junior lienee.

Dear Sir:

This will acknowledge receipt of your letter of November 10, 1939, submitting for a legal opinion the following case:

> "In Trinity County a number of tax judgments have been taken on property wherein the Federal Land Bank is involved as a lien holder. In quite a few cases the Bank holds a lien on only part of the property involved in the judgment. The Bank desires to pay the delinquent taxes covered in the judgment on that portion of the entire tract covered by its lien, and secure a release from the judgment on that portion it clears of taxes. May the Tax Collector accept payment of this lien holder of the taxes due on that part of the whole covered by its lien, leaving the balance unpaid? In other words, if a judgment was secured covering 100-acres, and the Federal Land Bank has a lien on only 50-acres of the 100-acre tract, may the Bank pay on the 50-acres and secure a release from the judgment, leaving the balance of the judgment unpaid? And may the Bank be subrogated in so far as its payment of the taxes is concerned?

We assume from your letter that the Federal Land Bank, as junior lienee, claims and has a lien upon a part of a tract or tracts of land rendered by the owner in solido. In such a case the right of redemption in part and release of the land pro tanto, does not exist, as is the case where the rendition by the owner has been of separate tracts of land, and the junior claimant claims

one or more of the separately rendered properties. In the latter case the right of partial payment - complete payment as to the particular land involved - does entitle the junior lienee or claimant to a release - satisfaction as to his land.

This has been ruled by this department in opinion No. O-928, wherein the language of the Supreme Court in the case of State Mortgage Corp. v. Ludwig et al, 48 S.W.(2d) 950, is quoted as follows:

> "The Supreme Court most properly held in Richey v. Moor, 112 Tex. 493, 249 S.W. 172, that the owner or his assign, who had separately rendered and valued eight parcels of land for taxation, was entitled to compel the tax collector to accept, and issue a receipt for, the taxes on any one parcel, since the lien attached, under the present Constitution and laws, against each lot separately valued and assessed, for the amount of taxes on that lot alone. The court has never held that the same rule applied where the owner elected to treat two parcels as one for taxation purposes."

This, we are sure, will answer your inquiries in a satisfactory manner, but in the event our assumption with respect to the facts is in error, please kindly advise us for further opinion.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By (Signed) OCIE SPEER
Assistant

OS:MR/
AMM
APPROVED DEC. 13,1939
s/ GERALD C. MANN
ATTORNEY GENERAL OF TEXAS

APPROVED, Opinion Committee
By B.W.B. Chairman