



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERALHonorable Jesse James
State Treasurer
Austin, Texas

Dear Sir:

Opinion No. 0-4630
Re: Who is entitled to the excess
money for which property sells
under a tax sale?

Your letter of June 4, 1942, enclosing a letter to you from Mr. Conrad J. Landrum, Assistant District Attorney, Harris County, requesting our opinion on the proper procedure and disposition of the excess money received at a tax sale has been given our consideration.

In his letter to you of June 1st Mr. Landrum states that on January 11, 1941, the State of Texas recovered judgment against Chas. W. Bryan, et al, for delinquent taxes; that on May 6, 1941, the property was sold under tax sale to George Meier; that after paying all court costs and taxes there remained on hand a surplus of \$495.52 which the Sheriff paid into the registry of the court; that Mr. Meier has filed a motion asking the court to direct the \$495.52 be paid to him by reason of the fact that in April 1942 he claims he purchased the property from Mr. Bryan.

Under the above facts you have requested our opinion as to whether the State of Texas has any interest therein and if so what course to pursue.

Under Article 725B of the Revised Civil Statutes the law requires the Sheriff to pay the District Clerk any surplus remaining after the taxes and costs have been paid in a tax sale, and then provides:

"To be retained by him (the Clerk) subject to the order of the court for a period of two years, unless otherwise ordered by the court, at which time the court may order the same to be paid to the owner against whom said taxes were assessed; . . ."

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In the case of Moore v. Rogers, 99 S. W. 102, the Supreme Court in discussing the question of who was entitled to the excess money for which land sold under a tax sale, used this language:

"If there was an excess in the bid over the amount which the sheriff could lawfully collect, it was the proceeds of the sale of Rogers' land, and belonged to him in the hands of the sheriff."

Under the facts above stated the \$498.52 does not belong to the State of Texas and it has no interest therein. As to who is entitled to said money is a question that must be determined by the District Court.

APPROVED JUN 16, 1942

Wm. C. Cullen
FIRST ASSISTANT
ATTORNEY GENERAL

GWB:LY

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Geo. W. Barcus*
Geo. W. Barcus
Assistant

