



THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

May 25, 1948

Hon. Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-586.

Re: Rendition of property
during period of re-
demption following
sale for delinquent
taxes, and amount
necessary to redeem.

Dear Mr. Sheppard:

Your letter requesting our opinion upon the
above captioned matter reads as follows:

"Upon reading the case State vs. Moak,
et al, 207 S. W. 2d, Page 894, and reading
Article 7345b, as amended, this department
is confused as to whether it should require
property sold for taxes to remain on the
tax roll during the period of redemption,
and in what amounts the original owner would
be required to pay in order to redeem his
land under the following circumstances:

"1. What amount would the owner be
required to pay to redeem his property with-
in the second year of the period of redemp-
tion where the title to the property still
remained in the taxing unit?

"2. What amount would the original
owner be required to pay to redeem his land
during the second year of the period of re-
demption where a third party had bought the
property in at first sale; and

"3. Where the third party had bought
the property at a subsequent sale and paid
less than the adjudged value?

"4. Is the purchaser other than the taxing unit required to render the property and pay taxes during the period of redemption?"

The Supreme Court in State vs. Moak, et al, 207 S. W. (2d) 894, held that taxes do not accrue on land while the title is held by a taxing unit for itself and for the benefit of other taxing units during the two-year redemption period. This holding was based on the ground that "The property was exempt from taxation while held by the City for the State, the County and itself. . . ." If the taxable title was still in the original owner, and not in the purchasing taxing unit, it would not have been exempt from taxation. The purchaser at a tax foreclosure sale, whether a taxing unit or a private purchaser, acquires the same character of title. You are therefore advised that the purchaser and not the original owner is required to render the property for taxation.

Sec. 12 of Article 7345b, V. C. S. reads as follows:

"Sec. 12. In all suits heretofore or hereafter filed to collect delinquent taxes against property, judgment in said suit shall provide for the issuance of writ of possession within twenty (20) days after the period of redemption shall have expired to the purchaser at foreclosure sale or its or his assigns; but whenever land is sold under judgment in such suit for taxes, the owner of such property, or anyone having an interest therein, or their heirs, assigns or legal representatives, may, within two (2) years from the date of the filing for record of the purchaser's deed and not thereafter, have the right to redeem said property from such purchaser on the following basis, to wit:

"(1) Within the first year of the redemption period, upon the payment of the amount of the bid for the property by the purchaser at such sale, including a One Dollar (\$1) tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon, plus twenty-five per cent (25%) of the aggregate total.

"(2) Within the last year of the redemption period, upon the payment of the amount bid for the property at such sale, including a One Dollar (\$1) tax deed recording fee and all taxes, penalties, interest and costs thereafter paid thereon, plus fifty per cent (50%) of the aggregate total; and no further or additional amount than herein specified shall be required to be paid to effect any such redemption.

"In addition to redeeming direct from the purchaser, as aforesaid, redemption may also be made upon the basis hereinabove defined as provided in Article 7284 and 7285, of the Revised Civil Statutes of Texas of 1925. The term 'purchaser' as used in this Section shall include any taxing unit purchasing property at tax foreclosure sale. As amended Acts 1947, 50th Leg., p. 1061, ch. 454, § 2."

The above language stating the basis upon which property may be redeemed is clear and unambiguous.

You are therefore advised in answer to your questions 1, 2 and 3 that the original owner may redeem the property from the purchaser, whether a private purchaser or a taxing unit purchaser, within the first year of the redemption period, upon the payment of the amount bid for the property by the purchaser at the foreclosure sale, plus One (\$1) Dollar and the amount of all taxes, penalties, interest and costs paid by the purchaser or his assigns due on the property since the date of the judgment, if any, plus 25% of the aggregate total. The original owner may redeem within the last year of the redemption period by paying the same amount except he must pay in lieu of 25% of the aggregate total, 50% of the aggregate total. The adjudged value or the amount received at a subsequent sale should not be considered in arriving at the amount required to be paid in order to effect a redemption.

You also inquire as to whether or not property sold at a tax foreclosure sale should remain on the tax rolls during the period of redemption. We have already stated herein that the property should be rendered for taxation by the purchaser at the foreclosure sale. This is true even though a taxing unit is the purchaser. Article 7151 V.C.S. reads, in part, as follows:

"All property shall be listed for taxation between January 1 and April 30 of each year, when required by the assessor, with reference to the quantity held or owned on the first day of January in the year for which the property is required to be listed or rendered. Any property purchased or acquired on the first day of January shall be listed by or for the person purchasing or acquiring it. If any property has, by reason of any special law, contract, or fact, been exempt or has been claimed to be exempted from taxation for any period or limit of time, and such period of exemption shall expire between January 1 and December 31 of any year, said property shall be assessed and listed for taxes as other property; but the taxes assessed against said property shall be for only the pro rata of taxes for the portion of such year remaining. . . ."

After rendition by a private purchaser during the period of redemption, the property should be assessed for taxes. After rendition by a taxing unit purchaser during the period of redemption, the property should not be assessed for taxes as long as the title is held by the taxing unit. State v. Moak (supra). But if the property is redeemed by the original owner or sold during the period of redemption to a third party the property should then be assessed and listed for taxes for the pro rata part of the taxable year remaining. See Childress County v. Schultz, 199 S.W. (2) 860. The tax rolls should reflect the date of the purchase by the taxing unit and the date of redemption or re-sale and marked during this period "Title held by taxing unit - tax exempt" or words of like import. In this connection see our opinion V-252 a copy of which is enclosed herewith.

SUMMARY

The purchaser at a tax foreclosure suit should render the property for taxes. State v. Moak, et al, 207 S.W. (2) 894. The property may be redeemed by the original owner as provided by Sec. 12 of Art. 73⁴5b, V. C. S. The property should not be assessed for taxes during the time it is held by a taxing unit,

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but in the event of redemption or resale, it should be assessed for taxes for the pro rata part of the taxable year remaining. Childress Co. v. Schultz, 199 S.W. (2) 860.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

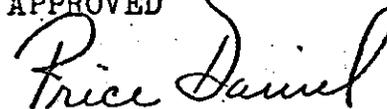
By



W. V. Geppert
Assistant

WVG/lh:wb
Encl.

APPROVED



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