



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD  
ATTORNEY GENERAL

July 29, 1953

Hon. Carl C. Conley  
Criminal District Attorney  
Willacy County  
Raymondville, Texas

Opinion No. S-77

Re: The force and effect of a  
judgment for ad valorem  
taxes together with the lien  
upon abstracting the judg-  
ment without a writ of exe-  
cution issuing.

Dear Mr. Conley:

You state that the Raymondville Memorial Hospital recently had a judgment rendered against them for delinquent city, school and county taxes. You further state that it is the desire of the hospital to pay the judgment in installments to extend over a two-year period. You request our opinion whether the judgment together with the lien would become dormant in the event execution was not issued during the two-year period.

Article 3773, V.C.S., as amended, reads in part:

"If no execution is issued within ten years after the rendition of a judgment in any court of record, the judgment shall become dormant and no execution shall issue thereon unless such judgment be revived. . . ."

The Court of Civil Appeals in Cox v. Nelson, 223 S.W.2d 84 (1949), in which the Supreme Court refused writ of error, held that Article 3773, supra, controlled over Article 5532, V.C.S., which provides:

"A judgment in any court of record, where execution is not issued within twelve months after the rendition of the judgment, may be revived by scire facias or an action of debt brought thereon within ten years after date of such judgment, and not after."

You will note that Article 3773 specifically provides that a judgment in any court of record shall become dormant only in the event no execution is issued within ten years after rendition of the judgment.

You are therefore advised that you will not prejudice the county's right to collect the judgment rendered against the hospital, or

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the lien thereon, by extending time of payment for two years.

SUMMARY

A judgment for ad valorem taxes together with the lien will be in full force and effect upon abstracting the judgment for a period of ten years without a writ of execution issuing thereon.

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By *W. V. Geppert*  
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APPROVED:

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WVG:mg