

TAXATION: Certificate holder not entitled to reimbursements for improvements made during redemption period.

December 6, 1935. 12-6



Honorable Gilbert Barlow  
Prosecuting Attorney  
Harrison County  
Bethany, Missouri

Dear Mr. Barlow:

We acknowledge receipt of your letter of November 29, 1935, requesting an opinion of this office on the following matter:

"Question, Can a purchaser recover compensation for improvements at its value on property purchased Nov. 1935 if made immediately after purchase and before the two years after the date of sale, especially to protect the property from loss and destruction by repairing the roof of the property covering the large holes over a foot or two in diameter?"

Section 9964a, page 434, Laws of Missouri 1933, provides in part as follows:

"The purchaser of any tract or lot of land at sale for delinquent taxes, homesteads excepted, shall at any time after one year from the date of sale be entitled to the immediate possession of the premises so purchased during the redemption period provided for in this act, unless sooner redeemed: \* \* \* \*"

The purchaser therefore has no right whatsoever to possession of the premises for one or two years, depending upon whether or not the tract is a homestead. Being without right to the possession of the premises it is hard to conceive under what circumstances he could require the owner thereof to reimburse him for any improvements made thereon. It should be kept in mind that under the Missouri law the purchaser of a certificate for taxes is in a peculiar position. He obtains only such rights as the law specifically gives him and does not obtain any title of any kind until the giving of the Sheriff's deed at the expiration of the redemption period. Therefore, any improvements made would be at the certificate holders risk unless his rights are specifically provided for in the law. In this respect Section 9956c, page 437, Laws of Missouri 1933, provides:

"In case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, and the land on which the same shall have been made shall be redeemed as aforesaid, the premises shall not be restored to the person redeeming, until he shall have paid or tendered to the adverse party the value of such improvements; and, if the parties cannot agree on the value thereof the same proceedings shall be had in relation thereto as shall be prescribed in the law existing at the time of such proceedings for the relief of occupying claimants of lands in actions of ejectment. No compensation shall be allowed for improvements made before the expiration of two years from the date of sale for taxes."

While the first sentence of this section gives the general right to the purchaser for reimbursement for lasting and valuable improvements yet the entire first sentence is modified and qualified by the provisions of the last sentence which effectually denies any reimbursement to the certificate holder for improvements made before the expiration of two years from the date of the sale.

Honorable Gilbert Barlow

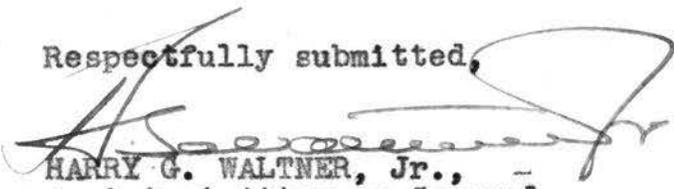
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CONCLUSION.

In view of the foregoing it is the opinion of this office that the certificate holder cannot recover compensation for improvements made on the property covered by the certificate of purchase, which improvements are made immediately after the purchase and before two years from the date of sale.

Respectfully submitted,

  
HARRY G. WALTNER, Jr.,  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.,  
(Acting) Attorney General

HGW:MM