

FARM:

DELINQUENT TAXES:

) Under the provisions of Section 75 of the Bankruptcy Act, a farmer who files a petition in the court immediately subjects all of his property to the exclusive and sole jurisdiction of the court. Sales of property for delinquent taxes cannot be had except from the petition made to the Judge of the Court and order granted permitting the sale of the same.

November 14, 1935.

Mr. L. G. Boatright
Collector of Revenue
Saline County
Marshall, Missouri



Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

"We have a farmer who is delinquent five years on his real estate taxes, and in the last few days he has filed a petition in Bankruptcy or Provision for Relief Of Debtor."

"Now can we sell this in the Nov. sale? Or does it extend his time of paying taxes?"

Under the provisions of Article I of the Constitution of the United States, Section 8, relating to the enumerated powers of Congress, there is provided ~~as~~ part as follows:

**** to establish **** uniform laws on the subject of Bankruptcy throughout the United States. ****

Under the powers granted by the Constitution of the United States, as above referred to, the Congress of the United States, under date of July 1, 1898, passed the Bankruptcy Act and said act has been subsequently amended to the present date.

It is with the provisions of the amendments to Section 75 of said act that we are concerned for the purpose of answering your inquiry.

Under the provisions of Section 203, 11 U S C A (Bankruptcy Act, Section 75), relating to provisions for relief of debtors, a farmer who is insolvent or unable to meet his debts as they mature may file a petition praying for a composition or extension of time to pay his debts. Pertinent part of Section 203, Subdivision "c", as amended, reads as follows:

"At any time within five years after March 3, 1933, a petition may be filed by any farmer, stating that the farmer is insolvent or unable to meet his debts as they mature, and that it is desirable to effect a composition or an extension of time to pay his debts. The petition or answer of the farmer shall be accompanied by his schedules. The petition and answer shall be filed with the court, but shall, on request of the farmer or creditor, be received by the conciliation commissioner for the county in which the farmer resides and promptly transmitted by him to the clerk of the court for filing. ****"

You are directed to Subdivision "n" as amended of Section 203, supra, relating to the filing of the petition, which reads as follows:

"The filing of a petition or answer with the clerk of court, or leaving it with the conciliation commissioner for the purpose of forwarding same to the clerk of court, praying for relief under this section, shall immediately subject the farmer and all his property, wherever located, for all the purposes of this section, to the exclusive jurisdiction of the court, including all real or personal property, or any equity or right in any such property, including, among others, contracts for purchase, contracts for deed, or conditional sales contracts, the right or the equity of redemption where the period of re-

demption has not or had not expired, or where a deed of trust has been given as security, or where the sale has not or had not been confirmed, or where deed had not been delivered, at the time of filing the petition."

We construe the above section to mean that, when a petition is filed in the court praying for relief, the effect is to subject the farmer and all of his property immediately wherever located to the exclusive jurisdiction of the court.

You are further directed to Subdivision "o" of Section 203, supra, relating to the prohibitions directed to judicial or official proceedings in any court or proceedings under the direction of any official. The pertinent parts of said subdivision read as follows:

"Except upon petition made to and granted by the judge after hearing and report by the conciliation commissioner, the following proceedings shall not be instituted, or if instituted at any time prior to the filing of a petition under this section, shall not be maintained, in any court or otherwise, against the farmer or his property, at any time after the filing of the petition under this section, and prior to the confirmation or other disposition of the composition or extension proposal by the court:

"Proceedings to acquire title to land by virtue of any tax sale; ****"

Under the provisions of the above subdivision, no proceedings to acquire title to land by virtue of any tax sale shall be instituted except upon petition made to and order granted by the Judge after hearing had been had and report submitted by the conciliation commissioner.

In the instant case, the county collector would petition the Court for permission to proceed in collecting the delinquent taxes due.

Subdivision "p" of Section 203, supra, provides as follows:

"The prohibitions of subsection (o) shall apply to all judicial or official proceedings in any court or under the direction of any official, and shall apply to all creditors, public or private, and to all of the debtor's property, wherever located. All such property shall be under the sole jurisdiction and control of the court in bankruptcy, and subject to the payment of the debtor farmer's creditors, as provided for in this section."

Your attention is further directed to paragraph numbered 2 of Subdivision "s" of Section 203, supra, which provides in part as follows:

"When the conditions set forth in this section have been complied with, the court shall stay all judicial or official proceedings in any court or under the direction of any official, against the debtor or any of his property, for a period of three years. ****"

When the conditions set forth in Section 203, (Bankruptcy Act, Section 75), have been complied with, the Court shall stay any proceedings under the direction of any official against the debtor or any of his property for a period of three years.

CONCLUSION.

In light of the above, it is the opinion of this department that a farmer who is delinquent five years in his real estate taxes and has filed a petition with the Court under Section 75 of the Bankruptcy Act relating to provisions for relief of the debtor would subject the farmer and all of his property to the exclusive and sole jurisdiction of the court.

Mr. L. G. Boatright

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We further conclude that the county collector is prohibited under the provisions of Section 75 of the Bankruptcy Act from advertising the property of the farmer, pursuant to the Laws of 1935, relating to the sale of delinquent property, except upon petition made to and granted by the Judge of the Federal Court permitting said collector to proceed.

Yours very truly,

RUSSELL C. STONE
Assistant Attorney-General.

APPROVED:

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

RCS/afj