

TAXATION: Certificate Holder not entitled to possession until expiration of one year or longer from date of sale.

December 6, 1935.

12-6



Honorable W. M. Dawes
Presiding Judge
Oxly, Missouri

Dear Judge Dawes:

Acknowledgment is herewith made of your communication of November 25, 1935, wherein you request an opinion of this office on the following matter:

"I am writing you for your opinion of Section 9954a in regard to getting possession of land purchased at land sale. Would I have to wait one year before I take possession if no one is living on the place or looking after it. Also Sec. 9956c. Can I get pay for improvements I put on the place right away or do I have to wait one year before I can improve the place and get pay for it if the land is redeemed."

I.

CERTIFICATE HOLDER ENTITLED
TO POSSESSION AFTER ONE YEAR
IF HOME NOT A HOMESTEAD.

Section 9954a, page 434, Laws of Missouri 1933,
provides:

"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 rights of a holder of a certificate of purchase are only those provided for by law. The certificate holder obtains no title whatsoever to the property by virtue of the certificate and under the Missouri law obtains only a conditional right to a deed. Having no title to the property any right to possession must be specifically set forth in the law. By virtue of the foregoing provision the holder of the certificate of purchase is entitled to possession of the property after the expiration of one year from the date of sale, provided that the property is not a homestead. In the event the property is a homestead his right to possession does not exist until a deed is obtained pursuant to the other provisions of this law. As seen from the foregoing quoted section the right to possession does not depend upon whether the property is occupied or unoccupied and therefore the fact that it is unoccupied does not give rise to any right to possession. As a matter of law your rights under your certificate of purchase are to be determined solely by the Jones-Munger Act and cannot be extended by implication to include those rights and powers which vest only in the owner.

CONCLUSION.

It is therefore the conclusion of this office that a holder of a certificate of purchase has no right to possession of the property covered by the certificate until the expiration of one year after the date of sale, provided that in the event the property is the homestead of the taxpayer the certificate holder has no right to possession until a deed is obtained as provided by the Jones-Munger law.

II.

CERTIFICATE HOLDER CANNOT CLAIM REIMBURSEMENTS FOR IMPROVEMENTS ON PROPERTY MADE DURING REDEMPTION PERIOD.

We have heretofore had occasion to pass upon this identical question and under date of December 6, 1935, this office rendered an opinion to the Honorable Gilbert Barlow, Prosecuting Attorney of Harrison County, Missouri, wherein the following conclusion was reached:

Honorable W. W. Daves

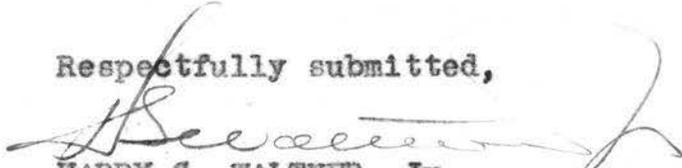
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December 6, 1935.

"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."

We herewith enclose to you a copy of that opinion for your information and trust that you find it fully answers your question.

Respectfully submitted,



HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

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

HGW:MM
Enclosure.