

TAXATION: Redemption of delinquent property subsequent to the second tax sale.

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September 7, 1935



Hon. John H. McNatt,
Assistant Prosecuting Attorney,
St. Louis County,
Clayton, Missouri.

Dear Sir:

This department acknowledges your request for an opinion under date of August 26th, wherein you state as follows:

"Our Collector would like to know whether or not the purchaser of property at a tax sale has any right to redeem after he has defaulted in the payment of taxes and there is a second sale. In other words, can the purchaser at the first tax sale come in subsequent to the second tax sale, pay up the taxes and redeem as against the second purchaser.

"This situation has arisen here and we would appreciate an opinion from your office."

Laws of Missouri, 1933, Section 9956a, page 437, sets out the manner of redeeming property sold for taxes, as follows:

"The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, in the following manner: By paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate

of purchase and all the costs of the sale together with interest at the rate specified in such certificate, not to exceed ten per centum annually, with all subsequent taxes which have been paid thereon by the purchaser, his heirs or assigns, with interest at the rate of eight per centum per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption. Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his heirs or assigns, at the last postoffice address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs or assigns, of any further interest or penalty. In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the two years next following the date of sale, no interest shall be charged or collected from the redemptioner after that time."

Laws of Missouri, 1933, Section 9957c, page 440, provides as follows:

"Every holder of a certificate of purchase shall before being entitled to apply for deed to any tract or lot of land described therein pay all taxes that have accrued thereon since the issuance of said certificate, or any prior taxes that may remain due and unpaid on said property, and the lien for which was not foreclosed by sale under which such holder makes demand for deed, and any purchaser that shall suffer a subsequent tax to become delinquent and a subsequent certificate of purchase to issue on the same property included in his certificate,

such first purchaser shall forfeit his rights of priority thereunder to the subsequent purchaser, and such subsequent purchaser shall at the time of obtaining his certificate redeem said first certificate of purchase outstanding by depositing with the county collector the amount of said first certificate with interest thereon to the date of said redemption and the amount so paid in redemption shall become a part of said subsequent certificate of purchase and draw interest at the rate specified in said first certificate but not to exceed ten percent per annum from the date of payment. Said holder of a certificate of purchase permitting a subsequent certificate to issue on the same property, shall, on notice from the county collector, surrender said certificate of purchase on payment to him of the redemption money paid by the subsequent purchaser."

It is specifically provided that the first purchaser shall forfeit his rights of priority to the subsequent purchaser, and we are therefore of the opinion that the purchaser at the first tax sale can not come in subsequent to the second tax sale, pay up the taxes, and redeem as against the second purchaser.

Respectfully submitted,

WM. ORR SAWYERS,
Assistant Attorney General.

APPROVED:

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

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