

TAXATION: Owner of undivided interest may redeem entire tract from sale.

12-21
December 17, 1936.



Hon. W. S. Pelts
Prosecuting Attorney
Dade County
Greenfield, Missouri

Dear Mr. Pelts:

We are in receipt of your request for an opinion of this office reading as follows:

"I am writing you in regard to some land that was sold by the collector for taxes in 1936.

The purchaser at this sale is J. T. Drisdell and the collector issued him a certificate of purchase at the time. Now Mr. McCammon of St. Louis is wanting to redeem this land and states to collector in his letter he owns five thirtieth or one sixth and perhaps some other interest.

What I want to know is can Mr. McCammon redeem any greater part of this land than he actually owns. The fact that he owns one sixth would that warrant the collector permitting him to redeem the whole tract, or should he limit him to the one sixth he owns according to Section 9955a, Session Acts 1933?

It seems that Section 9956a, Session Acts 1933 is a little confusing and that is the reason I want your opinion on this question."

In determining the issue presented by your communication we are resolved to the provisions of the specific statute under consideration and the application of general and well known principles to such statutory enactment. It is to be remembered that the Jones-Munger Law, beginning at page 425 Laws of Missouri 1933, set up a new and complete system for the enforcement of the payment of delinquent real estate taxes. Along with the provisions looking to the enforcement of the payment of the taxes, specific sections were enacted referring to the redemption of the property from the sale, thus looking to a protection of the property rights of persons who, through temporary financial embarrassment, might otherwise be required to finally sacrifice their land in payment of the obligation due the state. Sections 9955a to 9956a inclusive, set up means whereby redemptions may be made from the sales provided for in this law. You refer to section 9955a, page 436, Laws of Missouri 1933 in your communication. This section is short and reads as follows:

"Any person claiming an undivided part of any land sold for taxes may redeem the same on paying such proportion of the purchase-money, interest, penalty and subsequent taxes as he shall claim of the land sold."

Section 9956 commences:

"In every case where a partial redemption is asked for*****"

and then provides the specific procedure through which the person shall go through in order to effect a partial redemption. In other words it appears that Sections 9955a, 9955b, 9955c and 9955d each provide a specific right to a person who only desires to redeem that certain part of the tract in which they are particularly and especially interested by virtue of their ownership of the undivided share or specific part of land which may have been sold for taxes. Section 9956 prescribes the manner in which such partial redemptions may be effected. However, Section 9956a provides in part 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:****"

Thus this section authorizes and provides that any person having an interest in the land may, if he so desires, redeem the tract or lot of land sold. Thus it appears that this later section provides a right in any person owning a tract to redeem the tract from the sale or if such person has an interest in the tract, they may redeem the entire tract from the sale. We must give a specific meaning to the words "or any persons having an interest therein" which are contained in Section 9956a, because of well known rules of construction. After thus analyzing these pertinent sections of the law it appears that we should apply the rules well known and recognized as applicable to this legislation. These sections are of course sections authorizing redemption from tax sales. Such laws are recognized as remedial laws. 25 R.C.L. 1080, Section 300. Remedial statutes should be interpreted liberally to embrace all cases fairly within their scope and so as to accomplish the object of the legislature and effectuate the purpose of the statute. 59 C.J. 1107, Section 657.

In 26 R.C.L. 427, Section 384, we find the following statement:

"In most of the states the right of redemption is based wholly on statute and exists only so far as specifically provided; but it has always been held that a redemption law ought to receive a liberal construction in favor of those whose estates will be otherwise divested, especially where the time allowed is short, and ample indemnity is given to the purchaser and a penalty imposed on the owner."

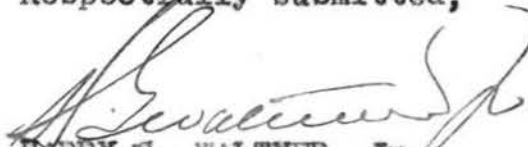
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Applying a liberal construction to the statutes in question, it appears that the Jones-Munger law authorizes a person having an undivided interest in a tract or lot of land to redeem his undivided interest if he so desires, or, if he so desires, he may redeem the whole tract from the sale.

CONCLUSION.

It is therefore the opinion of this office, from the information contained in your communication, that in the question put, Mr. McCammon is entitled to redeem the whole tract from the sale if he deposited with the County Collector a sum sufficient to cover the entire tax, penalty, interest and costs which have accrued.

Respectfully submitted,



HARRY G. WALTNER, Jr.,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

HGW:MM