

COUNTY COURTS:

Under Section 137.270, RSMo 1949, county courts may not hear and determine allegations of erroneous assessment or mistakes or defects in description of lands after taxes have been paid.

TAXATION:



March 17, 1952

3-20-52

Honorable Roy E. Glidewell
Prosecuting Attorney
Reynolds County
Centerville, Missouri

Dear Sir:

The following opinion is rendered in reply to your recent request reading as follows:

"An unusual situation has been presented to the County Court of Reynolds County Missouri and said Court thereupon requested this office to obtain an opinion thereon. Hence this office respectfully requests your official opinion in regard to the jurisdiction, if any, that the County Court may have and the legal procedure, if any, that the County Court should follow in re following factual situation:

"One Tony Wolf appeared before the County Court of Reynolds County, Mo., claiming error either in the assessment or collection of certain taxes and stated that on December 27, 1950 he entered the Collector's office of Reynolds County, Mo., and stated he wished to pay the taxes on his land. The Collector thereupon stated the sum due, accepted payment and gave a collectors receipt therefor. The receipt covered taxes paid on certain lands assessed in the name of said Tony Wolf to wit: NE $\frac{1}{4}$ & PT. NW $\frac{1}{4}$ SE $\frac{1}{4}$ & S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 14, tw. 30, R 2W.

"Then in January 1952 while attempting to pay his 1951 taxes he was informed by the Collector that his 1950 taxes were delinquent.

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"Prior facts were as follows: In 1949 said Tony Wolf sold and transferred above described real estate to one James Olliger. Such conveyance was recorded on 28 December 1949 but no change of ownership was made on the tax books of said County. Hence assessment for 1950 was made in the name of said Tony Wolf.

"In 1949 the said Tony Wolf purchased real estate located in the same County, township and school district and described to wit: NW $\frac{1}{4}$ SE $\frac{1}{4}$ & PT. NE $\frac{1}{4}$ SE $\frac{1}{4}$ & Pt. SW $\frac{1}{4}$ SE $\frac{1}{4}$ & PT SE $\frac{1}{4}$ NE $\frac{1}{4}$ & E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ & PT. N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 11, Tw. 30, R2. It is this last described real estate which the said Tony Wolf stated to the County Court that he believed he was paying taxes upon in 1950. This last described real estate is shown on the County books as being tax delinquent.

"The said James Olliger, to the best of the information obtainable by the County Court, has never tendered or attempted to pay the taxes assessed on the first above mentioned real estate.

"The question of the County Court is whether they could entertain jurisdiction, if so for what purpose, and if so, your legal opinion as to the law and procedure."

A reading of the request for an opinion, quoted above, discloses that in 1950 a taxpayer of Reynolds County paid taxes on real property assessed in his name though not owned by him at the time of payment; that the taxpayer, when paying such taxes was laboring under the impression that he was paying taxes on other land he had acquired in 1949 and on which taxes are now listed as delinquent for 1950; that no contention is made by the taxpayer that he was not, in 1950, or now, the owner of the lands which are now listed as delinquent in 1950; that an opinion is desired by the county court of Reynolds County as to what jurisdiction, if any, it may take and for what purpose.

The fact situation involved resolves itself into one where a taxpayer has voluntarily paid taxes on property which he did not actually own at the time of payment. This opinion deals only with the power of the county court of Reynolds County to take action in regard to this matter.

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At this point we quote the general rule relative to power of county courts as found in *Missouri Electric Power Company v. City of Mountain Grove*, 176 S.W. (2d) 612, 352 Mo. 262, l.c. 267:

"The authorities are uniform to the effect that county courts possess only limited jurisdiction. Outside the management of the fiscal affairs of the county, such courts possess no powers except those conferred by statute."

Section 137.270, RSMo 1949, provides:

"The county court of each county may hear and determine allegations of erroneous assessment, or mistakes or defects in descriptions of lands, at any term of said court before the taxes shall be paid, on application of any person or persons who shall, by affidavit, show good cause for not having attended the county board of equalization or court of appeals for the purpose of correcting such errors or defects or mistakes. Where any lot of land or any portion thereof has been erroneously assessed twice for the same year, the county court shall have the power and it is hereby made its duty, to release the owner or claimant thereof upon the payment of the proper taxes. Valuations placed on property by the assessor or the board of equalization shall not be deemed to be erroneous assessments under this section."

The above quoted statute contains the only statutory authorization we are able to find permitting the county court of Reynolds County to change the assessment list. The wording of the statute clearly discloses that any action the county court is authorized to take must be taken before the taxes shall have been paid. Facts submitted in the request for this opinion clearly disclose that the taxpayer has voluntarily paid the tax due on the only tracts on which he has erroneously paid a tax. In this situation, the county court of Reynolds County is not in a position to entertain any allegations of erroneous assessment, or mistakes or defects in description of such tracts, such allegations being made with a view to invoking the provisions of Section 137.270, RSMo 1949, cited above.

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CONCLUSION

It is the opinion of this department that Section 137.270, RSMo 1949, does not authorize the county court of Reynolds County to hear and determine allegations of erroneous assessment, or mistakes or defects in description of land when such allegations are made after payment of taxes on land involved.

Respectfully submitted,

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APPROVED:



J. E. TAYLOR
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