

TAX SALE:  
LAND SOLD FOR TAXES:  
REDEEM - WHO MAY?

Owner may redeem land sold for taxes. Occupant or person may redeem, if transfer may affect their rights; and agent of record owner may redeem if he has authority to redeem. Stranger to land cannot redeem.



September 24, 1956

Honorable James L. Paul  
Prosecuting Attorney  
McDonald County  
Pineville, Missouri

Dear Mr. Paul:

This is in answer to your request for an official opinion from this office involving Section 140.340, RSMo 1949. Your request reads as follows:

"There has been a question arise in this county relative to redemption of land sold for taxes between the date of the tax sale and the execution and delivery of the collector's deed. Please furnish me an opinion covering the following facts:

"A was the owner of real estate and is still the record owner thereof. A left this county some eight or ten years ago and his whereabouts are unknown. At the August tax sale in 1955, B bid the highest bid for A's land and received a certificate of purchase therefor. In July, 1956 C, an adjoining owner to A's land tendered to the County Collector the full amount of the bid plus the accrued interest and the 1955 taxes and demanded a redemption certificate in the name of A.

"The known facts are that C tendered this for his own personal gain as he desires to use the land for his own benefit. B claims he has no right to the certificate of redemption for the reason he has no authority from A to redeem."

Section 140.340, RSMo 1949, reads as follows:

"1. 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

Honorable James L. Paul

and all the cost of the sale together with interest at the rate specified in such certificate, not to exceed ten per cent 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 cent 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.

"2. 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 post office 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.

"3. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs, or assigns, of any further interest or penalty.

"4. 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."

It is clear that this section authorizes the owner of any land or lot sold for taxes to redeem said land or lot. The statute also authorizes "the occupant \* \* \*", or "any other persons having an interest therein" to redeem any land or lot sold for taxes. This latter phrase in the statute has caused some trouble, and Missouri cases have had to interpret it. "This undoubtedly means an occupant having some interest therein, whose rights might be affected by transfer of ownership." *Davis v. Johnson*, 357 Mo. 417, 208 S.W. 2d 266, 268.

If a person wanted to redeem land sold for taxes, "\* \* \* it was not necessary for him to be vested with the legal title to entitle him to redeem." *State ex rel. v. Short*, 351 Mo. 1013, 174 S.W. 2d 821, 822. In *Davis v. Johnson*, supra, at page 268 [1,2], the court said that, "It might include a lessee," and that it would include a person who claimed title by adverse possession. The purchaser of a note and trust deed securing it had a sufficient interest

Honorable James L. Paul

to redeem. State ex rel. v. King, 354 Mo. 501, 189 S.W. 2d 981, 982.

Thus, it appears from the above cases that a person, if he is not the owner of the land sought to be redeemed, must have a sufficient interest in the land to enable him to redeem it from a tax sale. From your letter, it does not appear whether "C" is such a person. If he is not, he would not be entitled to redeem the land, as he would not be a person having an interest therein.

Your letter states that "C" demanded a redemption certificate "in the name of 'A'", the record owner of the land. If "C" wants a redemption certificate in the name of "A", it would appear as if he is acting as an agent for "A" in this matter. Perhaps he is acting solely for his own personal gain, and has no interest in the land. If so, he would appear to be a stranger to the land.

Whether a stranger to the land or an agent may redeem, has not been decided in Missouri. Other jurisdictions, however, have held that an agent may redeem land from a tax sale, if he has the authority to do so. In People ex rel. Marsh v. Campbell, 143 N.Y. 335, 38 N.E. 300, New York had a statute very similar to ours, supra. Application was made to the comptroller to redeem, and it was signed, "P. J. Marsh, Agt." The court said at page 300, "The application does not disclose that Marsh had any interest in the premises sought to be redeemed, nor does the record show the meaning of the word 'Agt.' after the signature of the relator to the application to redeem." The court denied the agent the right to redeem.

In a West Virginia case, Townshend v. Shaffer, 3 S.E. 586, the issue was whether the agent who sought to redeem had the authority to do so. The court held the agent had the authority to redeem the land, since he was appointed attorney for the plaintiffs and was expressly authorized to protect all their interests in the title to the land. The court said at page 588, "It seems to me, therefore, that the powers of attorney were clearly sufficient to authorize Martin [the agent] to redeem the land."

Using the above as authority, "C" does not have the right to redeem the land unless he has authority from "A" to do so.

Also, if "C" is a stranger to the land, he would not be entitled to redeem. In Bloomfield Heights v. Holland Associates, 22 N. J. Misc. 61, 35 A. 2d 622, a person sought to redeem where New Jersey had a statute very similar to ours, supra. At page 627 the court held, "The defendant Cohen was not a party to the foreclosure, but neither is he one of the persons referred to in the statute who had a right to redeem. Not having any interest in

Honorable James L. Paul

the property itself, he is therefore in the position of a stranger and has no right of redemption."

In Nebraska, the courts have not allowed strangers to the land the right to redeem land from a tax sale. In Coffin v. Maitland, 146 Neb. 477, 20 N.W. 2d 310, the court said where the grantors were strangers to the title, their quit claim deed to the grantee granted him no right, title or interest upon which he could base a right to redeem.

#### CONCLUSION

Therefore, it is the opinion of this office that Section 140.340, RSMo 1949, authorizes the owner of any land or lot sold for taxes to redeem said land; and any occupant or person having an interest therein, which might include a person claiming title by adverse possession, a lessee, or the purchaser of a note and trust deed securing it.

Also, an agent may redeem the land if he has the authority to do so; and a stranger to the land has no right to redeem land from a tax sale.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, George E. Schaaf.

Very truly yours,

JOHN M. DALTON  
Attorney General

GES/b1