

County Treasurer—County Clerk—Duties—Tax Certificate Lost—Redemption Money Paid.

Where redemption money is paid to the County Treasurer, the production of the tax certificate is not essential before this official can pay over the money, but he should require evidence to satisfy himself that the claimant is the proper person.

December 17, 1918.

Mr. H. S. Farris,
Deputy County Attorney,
Bozeman, Montana.

I acknowledge receipt of your letter of December 13th, in which you inquire as follows:

“Will you kindly inform me as to the method of clearing the record, where tax sale certificate has been lost by the individual to whom same was given, and where such certificate is a cloud on the title of real property, for the reason that no redemption certificate can be issued by the County Treasurer, though the party to whom the original tax sale certificate was issued makes affidavit of loss or quit claims by deed.”

The question presented seems to relate to the procedure for clearing the record in the County Treasurer's and County Clerk's offices in cases where tax redemption money has been paid into the Treasurer but where the Tax Certificate has not been presented.

I find nothing in the law which requires the original Tax Certificate to be presented in order to entitle the property to be redeemed and to be marked “redeemed” on the records of the County Clerk and Recorder. To take a specific case: B buys in a tax sale a piece of property belonging to A and receives a Tax Sale Certificate therefor

under Sec. 2641, duplicate copy thereof going to the County Clerk. B thereafter loses his Tax Certificate. Within 3 years A or "any party in interest" (Sec. 2645) pays into the County Treasurer the necessary redemption money. This official then credits the same to B (Section 2649). At the same time the Treasurer issued in triplicate (this being the general practice though not prescribed by statute) a Redemption Certificate; one copy thereof goes to the person who has redeemed the property, one stays in the Treasurer's office and one is sent to the County Clerk and becomes in fact the "receipt of the County Treasurer for the use of the person named in the certificate of the total amount of redemption money" referred to in Sec 2649. The latter official, upon receipt thereof, marks the word "redeemed" on his records as prescribed by Sec. 2649.

No legal reason exists why the Treasurer should require the production of the original Tax Sale Certificate before he issues the Certificate of Redemption. In case of a lost Tax Sale Certificate the Treasurer should, of course, before paying the money to the alleged owner thereof, satisfy himself by such proof as he deems adequate, that such person is entitled to the money. This question, however, is not presented in your inquiry nor is it necessary to be considered in determining how to clear the record.

Respectfully,
S. C. FORD,
Attorney General.