

Taxes—Illegal Sales—Remedy—Title—Tax Deeds—Sales.

Section 2214 R.C.M. 1921, as amended by Chapter 85, Laws of 1927, provides that a tax deed title cannot be questioned after one year (except for fraud) and when questioned the purchaser may require the person bringing the action to pay all delinquent taxes; hence, a county taking tax deeds even where the sale was not valid, will eventually either secure the delinquent taxes or a good title to the property.

R. C. Dillavou, Esq.,
County Attorney,
Billings, Montana.

December 10, 1929.

My dear Mr. Dillavou:

You have requested my opinion as to the taxes of Yellowstone county prior to 1917, upon which the county has never held a valid tax sale and as to what procedure is necessary to collect the same or expunge the same from the records.

It is my opinion that the county should proceed to take a deed to this property for the reason that under the provisions of Section 2214,

R.C.M., 1921, as amended by Chapter 85, Laws of 1927, "such deed, duly acknowledged or proved is (except as against fraud) conclusive evidence of all other proceedings from the assessment by the assessor up to the execution of the deed, both inclusive, and no action can be maintained to set aside or annul a tax deed or to assert a title hostile to a tax deed upon any ground whatever, whether on the ground that said deed, or any prior proceeding, was irregular or void, other than that the deed was void because no taxes were delinquent on said lands, or because redemption had been made from said tax sale, unless the action is commenced within one year from and after the date of the issuance of said tax deed, * * * ."

This statute further provides that in case an action is brought within the year that the purchaser may require the party bringing the action to pay all delinquent taxes. It is therefore evident that if the county proceeds to take a tax deed to the property that it will either be able to secure a good title or else collect the delinquent tax from the person questioning the same.

Very truly yours,
L. A. FOOT,
Attorney General.