

**Opinion No. 101****Counties—Taxation—Insurance, Right of County to Proceeds where County Holds Tax Certificate.**

HELD: A county has no interest in the insurance contract between the owner of the property and the insurance company, even though the property was sold for taxes and the county expected to take a tax deed thereto.

March 6, 1933.

You have requested my opinion on the following:

"Mildred Frances Ammer was the title owner and had \$1,000 insurance on the buildings located on land that has been sold by the county for taxes and to which you expected to take tax deed on March 3, 1933. The owner during the 13 years had the place rented and received the rents. Does the county of Golden Valley and State of Montana have any chance to recover this insurance by action, or otherwise?"

In such a case both the county and Mrs. Ammer had an insurable interest in the buildings and improvements and the contract of insurance with either the county or Mrs. Ammer would have been a personal contract between the insurance company and the insured with which no one else not a party to such contract would have anything to do directly. The funds for insurance after they came into the hands of Mrs. Ammer might be levied upon under garnishment or execution in any action in which she was found to be liable. The following decisions are in point in

your case. "An interest, to be insurable, does not depend necessarily upon the ownership of the property. It may be a special or limited interest, disconnected from any title, lien, or possession." *German Ins. Co. v. Hyman*, 52 N. W. 401. "In such cases the contract is personal, and does not run with the title to the property." *Carpenter v. Insurance Co.*, 16 Pet. 495, 10 L. Ed. 1044; *Chrysler Sales Corp. v. Spencer*, 9 Fed. (2) 679.

These two cases are rather outstanding on the point and follow the general rule, and in harmony therewith this office is of the opinion that the county has no interest whatever in the insurance contract in the case which you have submitted.

As stated before, however, if Mrs. Ammer has any other property subject to execution she would be liable for the taxes the same as any other delinquent taxpayer, and furthermore the insurance money might be where it could be got at by garnishment.