

Opinion No. 201.

**Taxation—Delinquent Taxes—Penalty
and Interest—Redemption.**

HELD: A taxpayer may redeem without payment of penalty and interest, under Chapter 88, Laws of,

1935, from any tax sale of his real property to the county when the county has not assigned its interest acquired by such sale.

November 22, 1935.

Mr. Eugene L. Murphy
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You have submitted the following:

"Chapter 88, Laws of 1935, provides for redemption of property sold for taxes without the payment of penalty or interest where there has been no assignment. The County Treasurer wishes to know if a person can redeem without paying penalty and interest where there has been an assignment but the property has been resold for other delinquent taxes. There was no tax deed issued on the previous assignment."

In other words, your question put the following facts: A is the owner of real property which was sold to the county for delinquent taxes. The tax sale certificate for such sale was issued to the county. The county subsequently assigned its rights to B, as provided by Section 2207, R. C. M. 1921. If there were any subsequent taxes delinquent at the time of such assignment, B, of course, was required by said Section 2207, to pay them, including penalty and interest, at the time he acquired the county's interest. Thereafter, when the subsequent taxes became delinquent, the property was again sold to the county, as it should have been, and the county took another tax sale certificate. There has been no assignment of the rights of the county acquired under the second sale. The question is, whether A may now redeem from such second sale without payment of interest and penalty.

It is my opinion that he may do so; that by paying the original tax without interest and penalty, he may redeem from any sale of his property to the county when the county has not assigned its interest acquired by such sale. This is expressly provided by said Chapter 88. There is nothing in the Act to the contrary, nor indicating that the legislature intended otherwise. Section 1 thereof reads:

"That from and after the passage and approval of this Act, any person having an interest in real estate heretofore sold for taxes to any county, or which has been struck off to such county when the property was offered for sale and no assignment of the certificate of such sale has been made by the County Commissioners of the county making such sale, shall be permitted to redeem the same by paying the original tax due thereon, and without the payment of any penalty or interest thereon."

This construction of the Act gives full scope to its application. If reasonably possible, it should be applied so as to benefit the greatest number of taxpayers, permitting them to redeem on or before December 1, 1935, by paying the original delinquent taxes without interest and penalty and at the same time benefiting the state and its political subdivisions. That at least is the theory and purpose of the law. Furthermore, by permitting such redemption no one is injured. The taxes are paid and that is what the law was intended to accomplish. A, the taxpayer, is benefited because he obtains a reduction. B, who still holds the first tax sale certificate, is benefited because his security is enhanced. The statute, of course, protects B on his tax sale certificate for all that he has paid, and when redemption is made from the first sale on which he holds the tax sale certificate, A will have to pay B in full. Both the State and Federal constitutions protect B in his rights and that is no doubt the reason the exception was made in the Act in case of "assignment of the certificate of sale."