

Opinion No. 19-2308

June 23, 1919

BY: N. D. MEYER, Assistant Attorney General,

TO: Mr. J. Simpson, County Treasurer Curry County, Clovis, New Mexico.

Time When Tax Deed Should Be Issued.

OPINION

This office is in receipt of your letter of June 16th, in which you ask our opinion relative to the time of issuing a deed upon a tax sale certificate.

This question is rather difficult to answer, as you do not state the date of the issuance of certificates, because the law in effect at the time that the certificates were issued governs in the case.

Chapter 22 of the Session Laws of 1899 provided that the time of redemption commenced to run from the date of sale, and in the case of *Hiltscher vs. Jones*, 23, N.M. 674, it was held, construing this law, that the time the property was struck off to the county was the date of the sale, and that the tax certificate thereafter issued was merely an evidence that the sale had taken place. Further, that the fact that certificate was not recorded for a period of two and one-half years thereafter did not affect the period of redemption, but that the period of redemption expired three years from the date of sale.

This law was changed in 1913, and in reference to the particular phase under consideration it provided that the former owner could at any time within three years from the date of the recording of certificate redeem the property sold to the county. This law appears as Section 5500 and Section 5502 of the Codification of 1915. I believe that the sales made to the county in 1914, which you mention, are governed by this law, and you will readily see that the deed is to be issued only after the expiration of three years from the date that the tax sale certificate is recorded in the office of the county clerk.

Chapter 78 of the Session Laws of 1915 again amends this law to the effect that any former owner may at any time within three years from the date of such certificate redeem the property by paying to the county treasurer for the use of the purchaser, etc. You will see that under this law the date of the tax sale certificate is the date from which the period of redemption of three years begins to run; hence, it would follow that a tax deed could not be issued until the expiration of three years from the date of said certificate.

The present law in the case appears as Chapter 80 of the Session Laws of 1917. Section 10 of that chapter provides that the former owner of land sold for delinquent taxes may redeem within three years from the date of sale.

It was held in Cooper vs. Hills, 23 N.M. 696, in effect that the time that the sale is made governs the sales for delinquent taxes, so you can see as stated in the beginning of my letter that in order to ascertain when the time of redemption begins, and when deed may be issued, you must refer to the date of sale and then apply the law in effect at that time to the proceedings to be had in connection with that particular sale.

I hope that I have made myself sufficiently clear to enable you to understand the law relative to tax deeds inquired about, and I beg to remain,