

Opinion No. 26-3905

August 3, 1926

BY: ROBERT C. DOW, Assistant Attorney General

TO: Hon. J. E. Owens, Chief Tax Commissioner, Santa Fe, New Mexico.

This office is in receipt of your request for an opinion relative to certain tax matters. You desire to know first whether or not the purchaser of a tax sale certificate is entitled to be repaid by the person redeeming the property all money which he has paid for said tax sale certificate, including interest, penalties, and money paid for taxes for subsequent years due on said property, plus interest on his investment.

§ 449, Chapter 133, Laws of 1921, is as follows:

"Real property sold under the provisions of this act may be redeemed by the owner or any person having a legal or equitable right therein, at any time before the expiration of three years from the date of the sale, by payment to the county treasurer, to be held by him subject to the order of the purchaser, of the amount for which the same was sold, with interest thereon from date of sale at the rate of one and one-fourth per cent per month for the first twelve months, or fraction thereof, after sale, and one per cent per month for the remaining twenty-four months, or fraction thereof, together with the amount of all subsequent taxes paid by the purchaser or levied by the county."

The purchaser of the tax sale certificate is entitled to be refunded the amount for which the property was sold, with interest thereon from date of sale, as provided for in the above section of our statute, and this would include all penalties and interest which the purchaser had to pay in order to obtain the tax sale certificate; the purchaser of the tax sale certificate is also entitled to be reimbursed for all subsequent taxes paid by the purchaser, and if such purchaser has paid penalties and interest on such subsequent taxes, then he would be entitled to reimbursement for the same. In case the purchaser has only paid taxes for the year for which such tax sale certificate issued and has left subsequent taxes unpaid, the owner or person having a legal or equitable right therein before being allowed to redeem must pay to the county treasurer for the benefit of the county all taxes theretofore levied and due to the county on said property.

Under the above law, the purchaser of a tax sale certificate cannot collect interest on his investment except the interest which the statute provides for the same, being interest on the taxes for which said property was sold.

In case the purchaser purchased tax sale certificates for different years and said property had been sold to the county for different years, then the purchaser would be entitled to interest on the amount which he had paid for such tax sale certificates. In other words, the provision for payment of interest only applies to property which has been actually sold by the county, and where taxes for subsequent years is due and the

property has not been sold to the county then the purchaser is not entitled to interest on his investment even though he has paid such unpaid taxes in cases where the property has not been sold to the county.

You desire to know whether or not the purchaser or the assignee of the tax sale certificate is entitled to actual physical possession of the property or properties covered in the tax sale certificate purchased by the assignee from the county. The purchaser is not entitled to the possession of said property until the expiration of the redemption period and until he shall have received a deed from the county. § 452 of Chapter 133, Laws of 1921, provides that where the property has not been redeemed within three years from the date of the recording of the tax sale certificate the holder of such certificate may demand of the county treasurer a deed to the property, and the deed vests in the grantee, his heirs, successors and assigns a perfect and complete title in fee simple, free and clear of all liens and encumbrances, except taxes levied thereon prior or subsequent to the year for which said property was sold. When the purchaser has received his deed to the property he may then proceed to obtain possession of the premises.