

Opinion No. 48-5163

August 3, 1948

BY: C. C. McCULLOH, Attorney General

TO: Mr. J. D. Hannah, State Comptroller, Santa Fe, New Mexico.

{*158} We wish to acknowledge receipt of your letter of August 3, 1948 wherein you set forth an inquiry received by you from Mr. E. H. Byers, County Treasurer of Lea County, relative to partial redemption of a Tax Sale Certificate containing various pieces of property which has been sold to an individual.

Mr. Byers specifically desires the opinion of this office as to whether or not he has authority to allow redemption of part of the property sold in one certificate to an individual purchaser.

Section 76-715 of the 1941 Compilation provides:

"When more than one (1) tract, parcel, lot or part thereof is included in a tax sale certificate owned by the state of New Mexico and not assigned to a third person, and the same is subject to redemption, the person entitled to redeem may redeem any tract, parcel, lot or part thereof included in such certificate without redeeming all of such property contained therein, provided the county treasurer can with reasonable certainty segregate the part or tract to be redeemed and can ascertain the amount due thereon. The balance of the property remaining in such certificate and not redeemed may be assigned or deeded in the same manner as though it were all that was originally sold and with the same effect."

It is thus our conclusion that the aforementioned statute permits a person to redeem part of the property included in a single tax sale certificate only when same is owned by the State of New Mexico, and that the County Treasurer does not have authority to allow redemption of a part of the property where the certificate has theretofore been sold and assigned to a third person.

Trusting the aforementioned satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General