

Opinion No. 12-898

May 24, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Candido Padilla, Manzano, New Mexico.

MANZANO GRANT.

Owners of Manzano Grant should contribute to the payment of a general tax beyond what he may pay on his own individual portion.

OPINION

{*38} I have had your letter of the 13th inst. for a number of days but it has been impossible for me sooner to answer. You say that the {*39} Manzano Grant owes delinquent taxes to the amount of \$ 360.00, and that the commissioners of the grant are making efforts to pay this tax and for that purpose have imposed a tax on each acre of land within the grant payable by persons to whom the land has been conveyed. You say also that the great majority of the people have paid up and that you have almost the entire sum due, but that there are some persons who resist payment, some of them urging that they paid taxes for the land which they have and others that what they have they have purchased.

I assume that it must be true that where any man has been given a deed for a specific part of the grant, he is assessed individually for the land conveyed to him, and that the unpaid delinquent tax must be that which is due upon the undivided portion of the grant which is owned by the whole community and each owner of separate parts of the grant has at the same time an interest in the undivided part of the grant and undoubtedly has the use of that part of the grant for pasture and for wood, at least for domestic fuel. Having such an interest and use of the undivided part of the grant, each of such owners ought to contribute to the payment of the general tax beyond what he may pay on his own individual portion. Section 6 of Chapter 39 of the Laws of 1907 distinctly authorizes the commissioners to tax all parties interested in the grant to raise the necessary sums of money for the protection of the grant or the interest thereof and the payment of this tax is certainly necessary for the protection of the grant. Having authority to levy such taxes must carry with it the power to enforce payment by proceedings in court, and it would seem that the commissioners must have power to bring suits against the persons who refuse to pay, in any court of competent jurisdiction. If the amount involved is less than \$ 100.00 in any case I see no reason why the suit may not be brought in the court of a justice of the peace.