

**Opinion No. 15-1449**

March 1, 1915

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Hon. H. B. Hamilton, Carrizozo, N. M.

**No law preventing a treasurer of a county from buying at a tax sale property standing in his name or in which he is a joint owner.**

**OPINION**

{\*38} I have today received your letter of the 27th ult. in which you enclose letters from the Treasurer of Lincoln county, asking, in substance, whether there is anything in the statutes to prevent a treasurer of a county from buying in at a tax sale in his own name or in his wife's name, a piece of property in which he is a joint owner with other parties and in which he has a direct interest.

Like you, I know of nothing in the statutes which would distinctly disable a treasurer of a county from buying in property at a delinquent tax sale, but he should be very careful so to conduct such a sale and make such record of it that there will be no way open to attack his good faith and the correctness of his proceedings in making such a sale.

{\*39} If his object in bidding in property in which he is already a joint owner is to obtain exclusive title in himself as against his co-owners, he might find serious difficulty in view of the well-established doctrine that the act of any co-tenant in purchasing an outstanding title, inures to the benefit of all of his co-tenants. This rule is applied to purchases at tax sales as well as to other purchases, and even to the redemption of property by any one of the co-tenants. Of course, the owner who should purchase at a tax sale or should redeem from a tax sale or who might pay the taxes, is entitled to contribution from his co-tenants. You will see this satisfactorily discussed in Vol. 17 of the American and English Encyclopedia of Law, second edition, beginning on page 674.

I return herewith the letters which you enclose.