

Opinion No. 15-1610

August 5, 1915

BY: FRANK W. CLANCY, Attorney General

TO: W. W. Cox, Treasurer and Collector, Dona Ana County, Las Cruces, N. M.

Tax sale certificates.

OPINION

{*183} I have just received your letter of yesterday in which you say that your county commissioners, at their July meeting, placed a minimum value upon all tax sale certificates of 90 per cent of the face thereof in all but an exceptional few which were placed lower. You say that you understand that the owners have the right to redeem the certificates at any time before the advertised date of sale, but that if they are not redeemed and are sold to other parties, then the property owner may redeem only at the face value of the certificate as it stood before reduction by the commissioners, plus accrued interest. You further say that what you do not understand is, if the treasurer is unable to sell the certificates at the reduced value fixed by the commissioners when offered for sale at the regular tax sale, at what value can the property owner redeem, the value fixed by the commissioners or the first value of the certificate.

What you write about is to be answered by a consideration of the provisions of Chapter 78 of the Laws of 1915. That statute, after repeating from an earlier statute, the general provision that the former owner may at any time within three years from the date of the certificate redeem the property by paying to the county treasurer for the use of the purchaser or his assigns, the amount of the purchase money with interest thereon at the rate of one per cent per month, together with any taxes which may have been paid upon the property by the purchaser or his assigns with interest at the same rate, goes on to make a new and special provision as to property bid in by the county subsequent to March 16, 1905, and prior to March 18, 1913. In those cases where the certificate of sale has not been sold by the county treasurer in conformity with the provisions of Chapter 134 of the Laws of 1905, the former owner is given the right of paying the amount of taxes for which said county bid in the property at any time prior to January 1, 1916. Thus far this seems quite plain and the only confusion there can be arises from the provision in the last paragraph of Chapter 78, but I think that that has nothing to do with the right of the former owner to redeem at any time before the first of January next by paying the amount of taxes. You will notice that that right of redemption for the time limited does not require the payment of any interest, cost or penalties, and my opinion is that it means merely the amount of the taxes due on the property when it was bid in by the county.

The provision in the last paragraph of the act, which is the one to which your letter seems to relate, is, in effect, that the county commissioners may fix the least sum for

which the certificates held by the county may be sold at public auction to the highest bidder for cash. It is further provided that at any time prior to the date {**184*} fixed for the sale in the notice given by the treasurer, the owner may redeem by paying to the treasurer the minimum amount so fixed by the county commissioners, but I am unable to see that the privilege of making that redemption continues after the date fixed for the sale in the notice given by the treasurer. He drops back to the right of redemption between now and next January by paying the amount of the taxes which might be more or less than the minimum value fixed by the county commissioners, but he can not avail himself of the privilege of paying that minimum amount after the date fixed for the sale.