

Opinion No. 15-1663

October 26, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. George E. Remley, District Attorney, Raton, New Mexico.

Redemption of property sold at tax sale.

OPINION

{*235} Mr. Hugo Seaberg informs me that the Treasurer of Colfax County desires an opinion from me as to the meaning of language used in Chapter 78 of the Laws of 1915, and upon my telling him that the treasurer should go to you first for an opinion, Mr. Seaberg informs me that your office authorized him to ask me for such an opinion in view of the insistence of the treasurer.

As I understand, the question is as to what is meant by the statutory provision authorizing the redemption of property from a tax sale where the sale was made to the county subsequent to March 16, 1905, and prior to March 18, 1913, in accordance with Chapter 22 of the Laws of 1899, when the duplicate certificate of sale has not been sold by the county treasurer. Chapter 78 says that under such circumstances "the person or persons, their heirs, executors or assigns, who owned said property at the time the same was bid in by such county," are to have the right to redeem at any time prior to January 1, 1916, by paying the amount of taxes. It seems that in the matter of a client of Mr. Seaberg, he had purchased property upon which there was such a certificate of sale outstanding, and afterward applied to the treasurer as an assign of the former owner, to be permitted to redeem in accordance with the statutory provision above referred to. That provision is awkwardly worded, and taken literally, would mean that the assigns must be persons who own the property at the time the same was bid in by the county, {*236} but such a literal construction would do violence to the obvious legislative intent. We can readily suppose that this clause might have been first drafted so as to apply to the person or persons who owned the property, and that as an afterthought, the words about the heirs, executors or assigns were inserted so as to preserve the privilege after the former owner may have died or sold the property. Unless we construe the statute to mean that an heir, executor or assign of the person who owned the property when it was bid in by the county has the right to redeem in accordance with the statute, then the words, "their heirs, executors or assigns," are superfluous and without any meaning whatever.

I can see no reason to doubt that the meaning of this statute is that the vendee of property upon which such a certificate of sale is outstanding, succeeds to the right of his vendor to make the desired redemption.