

Opinion No. 26-3914

October 18, 1926

BY: ROBERT C. DOW, Asst. Attorney General, State of New Mexico

TO: Hon. Fred M. Bradford, County Treasurer, Otero County, Alamogordo, New Mexico.

This office is in receipt of several requests for an opinion with reference to whether or not a banking corporation, organized under and by virtue of the State Banking Laws of the State of New Mexico, is authorized or prohibited from purchasing or speculating in real estate.

I understand that a local State Bank in Alamogordo has purchased several hundred tax titles from the County Treasurer's office and is still purchasing the same. It has also been called to our attention by numerous affidavits signed by your local citizens that said banking corporation is now endeavoring to sell portions of said real estate back to the former owners, thereby making large sums of money from said sales; in view of the fact that under our laws, State Banking Institutions are prohibited from speculating in real estate, this matter should be stopped.

Section 17, Chapter 120 of the "Laws of 1919" provides "Banks may purchase and hold such real property as may be necessary for their immediate accommodation in the transaction of their business, **but not otherwise**, unless necessarily acquired in the protection or satisfaction of previously existing loans made in good faith."

I am advised that the purchase of this property is not necessary for the transaction of the Bank's business and that such lands have not been purchased for the protection or satisfaction of previously existing loans made in good faith. Therefore I am of the opinion that any purchases not meeting the requirements of the above statute are absolutely void in view of the prohibition contained in the statute; I am of the further opinion that property owners desiring to redeem their property should be allowed to redeem the same notwithstanding the fact that said bank has purchased said tax titles.