



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. George H. Sheppard
Comptroller of Public Accounts
Austin, T e x a s

Dear Sir:

Opinion No. 0-2004

Re: May a taxing unit sell property which it has purchased at a tax foreclosure sale within the two year period of redemption?

We are in receipt of your letter of February 27, 1940, in which you request the opinion of this department on the question set out in your letter as follows:

"Whether a taxing unit having bought property in the regular manner at a tax sale could sell within the two year redemption period for the adjudged value, or the amount of judgment; further, if either of the taxing units could sell within the two year redemption period for an amount less than the adjudged value, or the judgment in said suit, providing the other taxing unit, or units, consented to said sale at a less amount; also, if one of the taxing units can sell either for the full amount of the judgment or less, under the provisions set out above."

Your questions are answered in Section 9 of Article 2345b of Vernon's Annotated Civil Statutes, which reads in part as follows:

"If the property be sold to any taxing unit which is a party to the judgment

under decree of court in said suit, the title to said property shall be bid in and held by the taxing unit purchasing same for the use and benefit of itself and all other taxing units which are parties to the suit and which have been adjudged in said suit to have tax liens against such property, pro rata and in proportion to the amount of the tax liens in favor of said respective taxing units as established by the judgment in said suit, and costs and expenses shall not be payable until sale by such taxing unit so purchasing same, and such property shall not be sold by the taxing unit purchasing same for less than the adjudged value thereof or the amount of the judgments against the property in said suit, whichever is lower, without the written consent of all taxing units which in said judgment have been found to have tax liens against such property; and when such property is sold by the taxing unit purchasing same, the proceeds thereof shall be received by it for account of itself and all other said taxing units adjudged in said suit to have a tax lien against such property, and after paying all costs and expenses, shall be distributed among such taxing units pro rata and in proportion to the amount of their tax liens against such property as established in said judgment. Consent in behalf of the State of Texas under this Section of this Act may be given by the County Tax Collector of the county in which the property is located.

Provided that if sale has not been made by such purchasing taxing unit before six months after the redemption period provided in Section 12 hereof has expired, it shall thereafter be the duty of the Sheriff upon written request from any taxing unit who has obtained a judgment in said suit, to sell

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said property at public outcry to the highest bidder for cash at the principal entrance of the courthouse in the county wherein the land lies, after giving notice of sale in the manner now prescribed for sale of real estate under execution * * *

This department ruled in Opinion No. 0-950, written by Honorable Bruce W. Bryant, Assistant Attorney General, and addressed to Honorable Richard S. Morris, County Attorney, Claude, Texas, as follows:

"(b) It is our opinion that a taxing unit purchaser of land at a tax sale may, before the period of redemption has expired, sell, convey or assign at private sale its right to receive the redemption money from the owner, together with the title which will vest upon failure to redeem within the statutory period."

Where a taxing unit purchases property under the authority of Sections 8 and 9 of Article 7345b of Vernon's Annotated Civil Statutes, said taxing unit holds the same in trust for itself and the other taxing units which were parties in the suit. The problem here is whether or not the purchasing taxing unit may assign or convey the interest in the property of the other taxing units as well as its own.

The above quoted article specifically authorizes a taxing unit purchasing property to sell the same for less than the amount of the adjudged value of the property or the amount of the judgment in the tax suit, whichever is lower, when said taxing unit obtains the written consent of all other taxing units which, in the judgment, have been found to have tax liens against the property. It necessarily follows, therefore, that the Legislature intended to allow the sale of such property for an amount equal to the adjudged value of the amount of

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the judgment in the suit without obtaining the written consent of all of the other such taxing units. It would be an absurd conclusion to say that property may be sold by the taxing unit within the two year period by obtaining consent from the other taxing units which were parties to the judgment for an amount less than the adjudged value or the amount of the judgment, whichever is lower, and to say, on the other hand, that said taxing unit could not sell such property for an amount equal to or greater than the adjudged value or the amount of the judgment.

Therefore, it is the opinion of this department that within the two year period of redemption the taxing unit which has thus purchased property at the first tax foreclosure sale may sell such property for an amount at least equal to the adjudged value of the property or the amount of the judgment, whichever is lower, or for an amount less than such adjudged value or amount of the judgment by obtaining written consent of the other taxing units which were awarded judgment in said suit.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Billy Goldberg
Billy Goldberg
Assistant

BG:ob

APPROVED MAR 20, 1940

George H. Sheppard
ATTORNEY GENERAL OF TEXAS

