



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

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OPINION NO. 85-133

June 17, 1985

Honorable Byron Thomason
State Representative
907 Holland Drive
Magnolia, AR 71753

Dear Mr. Thomason:

You have requested the opinion of this Office regarding the following three questions:

1. For minerals sold prior to Act 626 of 1983, in Columbia County, what is the proper method of redemption and the role of the tax collector and county clerk in redeeming said properties?
2. If after a tax deed has been issued to an individual pursuant to a tax sale upon minerals which were assessed prior to 1983, under the method of separate books in Columbia County, what is the role of the tax collector/county clerk in said redemption?
3. Since the Supreme Court has stated that these deeds are void, should the county clerk or tax collector redeem said lands or advise the tax payer to file a suit in order to quiet his title to the same?

These questions will be answered in turn.

In answer to question number one, for mineral interests sold prior to the effective date of Act 626 of 1983, the method of redemption to be used is the method that existed prior to the effective date of Act 626 of 1983. Act 626 provides in section one:

Hereafter all tax delinquent land upon which the taxes have not been paid for two years following

the date the taxes were due shall be transferred to the Commissioner of State Lands for collect and/or sale. (Emphasis added).

Under the circumstances you describe, the property would have been sold and, therefore, taxes paid on it and would not have been transferred to the Commissioner of State Lands for sale or collection. Redemption, therefore, would, of necessity, be by the provisions of the redemption statutes which existed prior to Act 626. See, Ark. Stat. Ann. §84-1201 et seq (Repl. 1980). The duties and responsibilities of county officials with respect to such redemptions are clearly set forth in the Statutes and are probably familiar to all clerks and collectors in the State of Arkansas.

In answer to your second question, again, the duties and responsibilities of the county clerk and collector with regard to such redemptions are set forth in Ark. Stat. Ann. §84-1201 et seq. Therefore, as I undertand this question, the answer to question number two is the same as that to number one.

With regard to your third question, you note that the Supreme Court in Dawdy v. Holt, 281 Ark. 171, 662 S.W.2d 818 (1984), has held that tax deeds for mineral interests which derive from certain improper assessments are void and that, as a result of this decision, record owners who had such mineral interests sold for taxes are now approaching the county clerk and collector in Columbia County to redeem such interests. You ask whether the county clerk or tax collector should redeem said interests, or advise the taxpayer to file a suit in order to quiet his title. In answer to this question, the taxpayer must take some legal action with regard to his title in said interest if the statutory period for redemption has passed. Therefore, the county clerk or collector may advise such a taxpayer to take the appropriate legal actions to clear his title in the mineral interests involved.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Tim Humphries.

Sincerely,


STEVE CLARK
Attorney General

SC/TH/ljm