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THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 86-29-1101 March 5, 1986

SUBJECT: Taxation and Revenue - Redemption From Tax Sale.

SYLLABUS: A purchaser of real property sold for non-payment of taxes may redeem the property when the same is sold at a subsequent tax sale.

TO: Honorable William M. Ellen
Lee County Treasurer and Tax Collector

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTION: The city of Bishopville sold a parcel of property on October 21, 1983 for non-payment of the city's property tax. A deed was executed by the city to the purchaser on October 23, 1984. Lee County sold the same property on October 15, 1984 for non-payment of county taxes for the 1983 tax year. The person holding title under the city's deed seeks to redeem the property from the county sale. Your inquiry is whether such person may redeem.

APPLICABLE LAW: Section 12-51-90, South Carolina Code of Laws, 1976, as amended.

DISCUSSION:

It is understood that Lee County has adopted the provisions of Chapter 51, Title 12 for the collection of its delinquent taxes. Section 12-51-90 provides in part that:

"The defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor may ... redeem each item of real estate"

The question is thus whether the purchaser at the city tax sale is a "grantee from the owner". In Cain v. South Carolina Public Service Authority, 222 S.C. 200, 72 S.E.2d 177, our court commented upon the word "owner" as follows:

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"Of some analogy are tax statutes giving a right of redemption to the 'owner'. It has been rather consistently held that such right is not personal to the individual owning the property at the time of the tax sale. (citations omitted)." See also 72 Am.Jur. 2d, State and Local Taxation, § 999 and 1000, pp. 278 and 279.

In 85 C.J.S., Taxation, § 845, p. 217 it is stated that:

"The right to redeem extends to a purchaser at an execution, foreclosure, or other judicial sale The holder of a tax sale certificate or the purchaser at a tax sale may redeem from another tax sale, unless the sale was void."

It is here assumed that the sale by the city was valid.

An annotation on this question is published in 2 A.L.R. 792 and 95 A.L.R. 1085, 1094, 1095. The cases annotated therein and those cited in C.J.S. support the conclusion that the purchaser at the city's tax sale may redeem.

By operation of law, the title passed from the defaulting taxpayer to the purchaser at the city's tax sale. Under such circumstances, the purchaser is given the authority to redeem.

CONCLUSION:

A purchaser of real property sold for non-payment of taxes may redeem the property when the same is sold at a subsequent tax sale.

JLAJr/jws