



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 17, 2020

John T. Lamar, Jr., Esq.
Board Attorney, Tate County
214 South Ward Street
Senatobia, Mississippi 38668

Re: Sale of Real Property for Delinquent Ad Valorem Taxes

Dear Mr. Lamar:

The Office of the Attorney General has received your request for an official opinion.

Background Facts

According to your request, several years ago, an individual who owned real property in Tate County, Mississippi filed for bankruptcy protection. As a result, you assert that his real property was tied up in bankruptcy for approximately three years—2016, 2017, and 2018—meaning, his property was not sold for delinquent taxes for a period of three years. You state that the bankruptcy court lifted the stay, and the Tate County Tax Assessor/Collector sold the property at the regularly scheduled tax sale in August 2019, combining all three (3) years into one sale. According to your request, the purchaser of the property at the tax sale is now demanding a tax deed from the Tate County Chancery Clerk.

Questions Presented

1. Does the Chancery Clerk of Tate County, Mississippi, have authority to execute a tax deed to the purchaser of property at the 2019 tax sale in light of the fact that there was never a sale for the three (3) previous years, and it was all combined in one sale in 2019?
2. Does the purchaser have to wait 3 years from the date of sale to acquire a tax deed?

Brief Response

Because your first question requires this office to opine on past action, we cannot address it.

In response to your second question, no. A tax deed may not be issued until the redemption period—two years after the date of the sale—has passed.

Applicable Law and Discussion

As we understand your first question, you ask whether, considering the fact that the tax sales for 2016, 2017, and 2018 were combined into a single sale, the Chancery Clerk may issue a tax deed to the purchaser. Answering this question would require us to opine on the validity of the sale. Pursuant to Mississippi Code Annotated Section 7-5-25, an Attorney General's opinion can neither validate nor invalidate past action. Thus, we are unable to issue an official opinion in response to your first question.

If the sale was, in fact, valid, Section 27-45-3 addresses the time period for issuing a tax deed, providing, in relevant part: "The owner, or any persons for him with his consent, or any person interested in the land sold for taxes, may redeem the same ... at any time within two (2) years after the day of sale" Section 27-45-23 further provides that "[w]hen the period of redemption has expired, the chancery clerk shall, on demand, execute deeds of conveyance to individuals purchasing lands at tax sales." Based upon the plain language of Section 27-45-3, and assuming the subject tax sale was valid, it is the opinion of this office that the tax deed may not be issued until two years after the date of the tax sale.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General