



ARTHUR JOHNSTON
MADISON COUNTY CHANCERY CLERK
P. O. BOX 404
CANTON, MS 39046
JOHNSTON@MADISON-CO.COM

PHONE 601-855-5526

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November 18, 2013

MEMORANDUM

TO: MADISON COUNTY BOARD OF SUPERVISORS

RE: REQUEST TO VOID TAX SALE, 2013, PARCEL NUMBER 105I-32-011/03.00,
AND REFUND PURCHASER

MESSAGE:

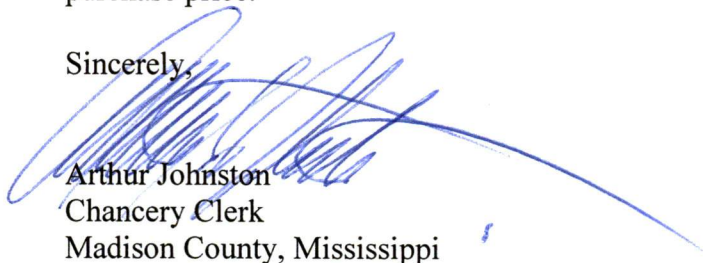
This parcel matured to the State of Mississippi by virtue of a strike off during the 2010 Land Sale for 2009 taxes. (See attached)

According the State Attorney General, perfect title vests in the State after maturity and that property cannot be the subject of a subsequent sale. (See attached)

This parcel was erroneously sold to an individual purchaser at the 2013 Land Sale and should therefore not be subject to the sale.

It is my recommendation that you void the subject tax sale and refund the purchaser the purchase price.

Sincerely,



Arthur Johnston
Chancery Clerk
Madison County, Mississippi

Madison County, Mississippi**Deed Record Lookup****Indexing Information**

Instrument Number: 716484
 Type: S
 Book: 20131
 Page: 468
 Sub-Page: 3
 Nature: TAX SALE
 Time: 9:00 AM
 Date: 8/26/2013
 Related Document(s):
 Grantor VAUGHN JO ANN
 .PARCEL# 105I-32 -011/03.00
 .RECEIPT# 045353
 Grantee JGJC, INC
 .PO Box 3520
 .Meridian MS 39303

Legal Description (Section/Township/Range)

Section	Township	Range
32	10N	05E
N/E	S/E	N/W
NE SE NW SW	NE SE NW SW	NE SE NW SW

/

No Image Record Found**Return to search results.**

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*** THIS IS A STATEMENT ONLY. THIS IS NOT A RELEASE. THIS IS NOT A RELEASE.

PPIN 36230 Yr 2012 Entry Parcel No 105I-32 -011/03.00
Description of Property Section Township Range Acres
1.0 AC IN SW1/4 NW1/4 32 10N 05E 1.00
assessed to VAUGHN JO ANN and sold to JGJC, INC
STATEMENT OF AMOUNT NECESSARY TO REDEEM Tax Receipt Number 45353

I. DELINQUENT TAX AND FEES DUE INDIVIDUAL OR STATE PURCHASER:

1. Amount of 2012 delinquent tax (Section 27-45-3)	County	146.76	
	School	172.76	
2. Interest on delinquent tax (Section 27-41-9)	County	10.28	
	School	12.09	
3. Publishers fee (per publication) (Section 25-7-21(3))		3.00	
4. Subtotal lines 1, 2, and 3			344.89
5. Purchasers interest on line 4 at 1 (or 1.5 for sales after March 27, 1995) per month since sale date. (4 months x 1.5 x line 4) (Section 27-45-3)			20.69
6. Damages (only for sales prior to July 1, 1994) 5 on delinquent tax (5 line 1) (Section 27-45-3)	County		
7. TOTAL AMOUNT DUE TO PURCHASER (lines 4, 5, and 6)			365.58

II. DAMAGES, FEES AND ACCRUED TAXES DUE TO COUNTY:

8. Damages (only for sales from July 1, 1994) 5 on delinquent tax (5 line 1) (Section 27-45-1)	County	7.34	
	School	8.64	
9. County actual postage fee (Section 27-43-3)			
10. Publishers actual fee (if paid by county) (Section 25-7-21)			
11. Accrued Taxes for year (Section 27-45-3)	County		
12. Interest on accrued taxes for year (Section 27-45-3) 1.5 x months	County		
13. Accrued Taxes for year (Section 27-45-3)	County		
14. Interest on accrued taxes for year (Section 27-45-3) 1.5 x months	County		
15. TOTAL AMOUNT DUE TO COUNTY (Lines 8 through 14)			15.98

III. FEES DUE TO COUNTY OFFICIALS

Sheriffs Fees:

16. 1st Notice (Section 27-43-3)		\$35.00	
17. 2nd Notice (Section 27-43-3)		\$35.00	
18. TOTAL AMOUNT DUE TO SHERIFF (lines 16 and 17)			
Chancery Clerks Fees:			
19. Identify record owners (Section 27-43-3)		\$50.00	50.00
20. Recording list, each subdivision lot (Section 25-7-21(4) (a))		\$1.00	1.00
21. Issue 1st sheriffs notice (Section 27-43-3)		\$2.00	
22. Mail 1st owners notice (Section 27-43-3)		\$1.00	
23. Issue 2nd sheriffs notice (Section 27-43-3)		\$5.00	
24. Mail 2nd owners notice (Section 27-43-3)		\$2.50	
25. Issue each lienor notice (Section 27-43-11)		\$7.00	
26. Publishers actual fee, if paid by clerk (Section 27-43-3)			
27. Recording each redemption (Section 25-7-21(4) (d))		\$10.00	10.00
28. Abstracting each subdivision lot (Section 25-7-21(4) (e))		\$1.00	1.00
29. Certify amount to redeem (Section 25-7-9(1) (a))		\$1.00	1.00
30. Certify release from sale (Section 25-7-9(1) (a))		\$1.00	1.00
31. Subtotal Lines 19 through 30			64.00
32. Calculation subtotal lines 7, 15, 18 and 31		445.56	
33. Redemption fee 3% x line 32 (Section 25-7-21(4) (f))			13.37
34. TOTAL AMOUNT DUE TO CHANCERY CLERK (Lines 31 and 33)			77.37

IV. AMOUNT TO RECEIVE FROM REDEEMER:

38. GRAND TOTAL (lines 7, 15, 18, 34, 35, 36, and 37)			458.93
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*** THIS IS A STATEMENT ONLY. THIS IS NOT A RELEASE. THIS IS NOT A RELEASE.

Redemption amount valid until 11/30/2013 Statement printed 11/ 7/2013 Effective 11/ 7/2013

May be subject to additional fees if notices or defaults become effective after this date.

Submit Payment to:
ARTHUR JOHNSTON, CHANCERY CLERK
P.O. BOX 404
CANTON, MS 39046

Parcel Number 105I-32 -011/03.00

PPIN 36230 Year 2009 Entry

Owner VAUGHN JO ANN

JD 0 Tax Dist 522

Homestead Type 1=065 2=DAV 3=DIS 4=Regular Split Exempt Code

----- County -----

County:

Rcpt	43982	Roll	Page	Line	
		Base	Rate		Tax
Adval.		2333	43.8400		102.28

First Year Subsequent Taxes Paid by Purchaser

Regular
100 Credit

Second Year Subsequent Taxes Paid by Purchaser

Levee
Forest .09

Redemption Date & Number

Dr 1
2
3

MATURED TO STATE

Total Taxes 102.28

Interest 7.17

Printers Fee 3.00

Added By / /
Changed By DONNIE 6 / 13 / 2013

Taxes Paid

Penalty Paid

Unpaid Taxes & Penalty 112.45

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F3 for next record, Page-Up for previous

Library MADISON COUNTY TAX 2014

STATE OF MS

Parcel 105I-32 -011/03.00 PPIN 36230

Alt Parcel 1053200110300

Exempt Code 16 JD 0 Tax District 5 M

Subdivision

ADDENDUM

Neighborhood
St Addr 3958 HWY 16 E

Map

Sect/Twn/Rng 32 10N 05E Blk

Cls	C-Acres	C-Value	U-Acres	U-Value	T-Acres	Improved	True	Assessed
1	1.00	15000			1.00	3110	18110	2717
2						2680	2680	402
	1.00	15000			1.00	5790	20790	3119

Homestead Type 1=065 2=DAV 3=DIS 4=Regular Regular 100

Mtg Group Eligible C11 N (Y/N)

New Value Added F-Fire O-Override Deed Bk 378 Pg 799 Ext

Drainage Code Benefit Price Total Deed Date 7 5 1996 Type D

5 FARMHAVEN FI 3119.00 F Current 2010 Yr Added 11 12 2001

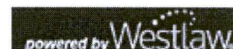
L 15000 CNV

B 5790 Chged 3 28 2013

Levee Benefits X = Use1 1110 Use2 IF

F3-NEXT PARCEL F5-LEGAL F6-ADDENDUM F7-DEEDS F8-FLAGS F9-OPTIONS F24-EXIT

F3 next record, Page-Up prev record, F13 Paperlink



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Kay Pace
2010 WL 942878
February 12, 2010

◀ Term ▶ ▶ Best Section ▶

2010 WL 942878 (Miss.A.G.)

Office of the Attorney General
State of Mississippi
Opinion No. 2010-00036

February 12, 2010

Re: Supplementary Tax Sale**← Kay Pace →**

Tax Collector
Madison County
P.O. Box 113
Canton, MS 39046-0113

Dear Ms. ← Pace →,

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply.

INQUIRY

Do the supplementary tax sale provisions in Sections 27-41-65 and 27-41-67 allow the tax collector to conduct a second or supplementary tax sale of certain properties which did not sell at the first tax sale and which were struck off to the state?

RESPONSE

* Once property is struck off to the state at a county tax sale, that property cannot be the subject of a subsequent sale, as title has already vested in the state. Furthermore, the tax collector is mandated to strike the land off to the state when it fails to bring a bid. Thus, the tax collector is not authorized to conduct a second sale to attempt to sell property which has already been struck off to the state.

BACKGROUND

You explain that the Parkway East Public Improvement District was established by the Madison County Board of Supervisors pursuant to Mississippi Code Sections 19-31-1, et seq. The Board levied special assessments for 2008 in accordance with Section 19-31-17(p), which. Due to non-payment of ad valorem taxes and the special assessments by the assessed landowners, certain properties were offered for sale at the August 31, 2009 regular county tax sale. No bids were received for three (3) of the lots and thus they were struck off to the state. As a result, not only of course does the county not obtain the benefit of the ad valorem taxes on said parcels, but the PID fails to collect the special assessments on those properties, which is a substantial sum.

The PID has requested that the Board of Supervisors authorize an additional or supplementary tax sale for these properties.

ANALYSIS

Public Improvement Districts are authorized to levy assessments to support the work of of the PID, and pursuant to Section 19-31-11, such assessments are to be entered by the tax assessor just as with ad valorem taxes. Furthermore, procedures for the collection and enforcement of the special assessment is to be the same as procedures for the collection and enforcement of ad valorem taxes, to-wit:

These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section.

Miss. Code Section 19-31-11.

Thus, the subject property may be offered for sale at the regular county tax sale for failure to pay the special assessment, which is what occurred in your situation.

You now ask whether the tax collector would have authority to essentially "try again" and offer the properties for sale a 2nd time, since, after being struck off to the state, the property will no longer generate much needed taxes and special assessments. You point to Sections 27-41-65 and 27-41-67 as possible authority for this supplementary tax sale. Those sections provide as follows, respectively:

27-41-65

If from any cause a sale of any land for taxes which is liable to such sale shall not be made at the time appointed by law for such sale, it may be sold thereafter, in the same or a subsequent year, at any time designated therefor by order of the board of supervisors. Notice of a sale so ordered shall be given by advertising it in the manner prescribed by law for the sale of land for taxes; and the same shall be made at the same place and subject to all the provisions of law applicable to such sales at the time appointed by law. Lists of lands sold to the state and to individuals shall be filed in the office of the clerk of the chancery court within the same relative period of time after the sale as is allowed for filing such lists after sales at the regular time, and the clerk shall at once record them; and such lists shall be as valid and have the same effect and be subject to all the provisions of law applicable to such lists made of lands sold at the regular sale for taxes.

27-41-67

If from inadvertence or oversight a sale of any land for taxes which is liable to such sale shall not be made at the regular time appointed by law for such sale, it may be sold thereafter at any time designated therefor by an order of the board of supervisors, which order need not describe the land to be sold nor give the names of the owners of the land to be sold. Notice of a sale so ordered shall be given by advertising it in the manner prescribed by law for the sale of land for taxes; and the same shall be made at the same place and subject to all the provisions of law applicable to such sales at the time appointed by law. Lists of lands sold to the state and to individuals shall be filed in the office of the clerk of the chancery court within the same relative period of time after the sale as is allowed for filing such lists after sales at the regular time, and the clerk shall at once record them; and such lists shall be as valid and have the same effect and be subject to all the provisions of law applicable to such lists made of lands sold at the regular sale for taxes. This section shall not be construed as giving the tax collector any discretion to postpone the sale of lands from the time appointed by law for such sales.

The Supreme Court has not addressed either of these statutes, nor has this office by official opinion.

It appears that Section 27-41-67 would not apply, since it clearly is only triggered by "inadvertence or oversight." In your situation, there was no inadvertence or oversight - the parcels simply did not get a bid at the sale.

We turn then to 27-41-65, which allows a supplementary tax sale to be held when, "from any cause a sale of any land for taxes which is liable to such sale shall not be made at the time appointed by law for such sale." A cursory review of the statute indicates it is intended to apply to situations where, for whatever reason, the tax sale itself does not take place, as opposed to a sale being held, but no bids being received. However, we agree that the language can also reasonably be interpreted to apply to your facts - i.e., the tax sale is held, but no bid is received on a certain parcel, thus, a sale is not made for that parcel. Under such an interpretation, the board of supervisors would then be authorized by 27-41-65 to give notice of a subsequent tax sale, at which those parcels could be offered for sale a second time.

To interpret the statute in this manner, however, we must analyze what happens to a parcel that does not sell and is thus struck off to the state. From a procedural, as well as legal standpoint, once land has been struck off to the state, can it then be offered for sale again? If so, what is the purchaser at the sale purchasing? Does the secretary of state have any interest in the property which must be taken into consideration?

Our courts have held that lands struck off to the state are vested in fee simple to the state. An excerpt from the Court's holding in Smith v. Jackson State University, 995 So.2d 88 (Miss.2008) is instructive on this point:

[Once the land was struck off to the state] fee to the Property passed to the State of Mississippi, subject to the delinquent taxpayer's right of redemption as provided in Section 27-45-3 of the Mississippi Code, which states, in part:
All such lists [of lands struck off by the tax collector to the state] shall vest in the state ... a perfect title to the land sold for taxes, but without the right of possession for the period of and subject to the right of redemption ... The lists hereinabove provided shall, when filed with the clerk, be notice to all persons in the same manner as are deeds when filed for record.

This statutory language clearly provides that-even though the Estate [owner] retained a right of possession and redemption-the fee passed to the State of Mississippi on August 28, 2000, and the State became the "owner of the

land." State v. Rogers, 206 Miss. 643, 654, 39 So.2d 533, 537 (1949).

This office opined likewise in MS AG Op., Peacock (September 3, 2004), to-wit:

A notation should be made upon the tax records when property is stricken to the State at a tax sale. The assessed owner at the time of the sale could continue to be assessed for the next two years in which he has a right to redeem the property. If at the end of the two years the assessed owner has not redeemed the property, title has matured to the State and should be certified to the State. MS AG Op., Moore (May 9, 1978).

This office has previously opined that when lands are sold or struck to the state, *the state holds a perfect title subject to the right of redemption*. Unless the lands are redeemed within the time allowed by law, the property belongs to the state in fee and *title is in the state as of the date of the sale*. MS AG Op., Povall (February 15, 1995), enclosed. It follows that a tax lien is extinguished once title matures in the state and that tax lien no longer encumbers the property. MS AG Op., Lamar (January 15, 1993) (city tax lien is extinguished once title matures in the state and the city tax lien no longer encumbers the property), enclosed; MS AG Op., Lawrence (November 2, 2001) (maturity of property into the state extinguishes a federal tax lien and any enrolled judgment liens owed by prior owner of the property), enclosed.

Thus, the law is clear that title vests in the state *upon the date of the tax sale*, i.e., upon the date the land is struck off to the state. It follows then that, once struck off to the state, the land cannot be offered for sale at a subsequent tax sale by the county. Accordingly, to accomplish what you propose, there would have to be a procedural mechanism whereby land *not* sold at a tax sale is *not* struck off to the state on that date, but is held in abeyance until a second tax sale can be held. It is the opinion of this office that, when land does not sell at the tax sale, the tax collector is mandated to strike that parcel off to the state. Section 27-41-59, regarding the conduct of tax sales, provides in part as follows:

Upon offering the land of any delinquent taxpayer constituting one (1) tract, if no person will bid for it, the whole amount of taxes and all costs incident to the sale, *the tax collector shall strike it off to the state*.

Furthermore, Section 27-41-73 provides as follows:

If the purchaser of land at tax sale shall not immediately pay the amount of his bid, the collector shall offer the land again; and if some person will not then bid the amount of taxes and costs, *it shall be struck off to the state, as in other cases*; but the first purchaser shall be liable for the amount of his bid, to be collected by suit by tax collector in the name of the state. [Emphasis added]

We performed a cursory review of other states' statutory schemes involving tax sales and strike offs. Note that to alleviate the problem posed by your facts, Arizona's statutes provide that property subject to a special assessment, such as in your case, is struck off to *the district levying the assessment*.

On the summary sale of a lot, acre or parcel subject to an assessment lien levied by a flood protection district, if there are no offers to purchase the assessment lien, the lot, acre or parcel shall be struck off to the municipality or district without any payment being made by the flood protection district, and the district shall be deemed the purchaser and shall be vested with all remedies that a purchaser at the sale would have obtained. In addition, the district or municipality may bring a judicial action to foreclose the delinquent assessment lien at any time after it becomes the purchaser.

Arizona Revised Statutes Section 35-482.

Likewise, in Texas, lands not receiving the minimum bid amount at the tax sale are struck off to the taxing entity, not to the state. Vernon's Texas Statutes and Codes, Tax Code Section 34.01

In addition, with regard to municipal and drainage district special assessments, we note that the legislature has provided that the assessment does not abate when the land is struck off to the state. Section 29-1-97 provides as follows:

When any land is situated in a drainage district and is subject to any special drainage district assessment which is secured by a lien on said land, such lien shall not be abated or cancelled on account of the sale of such land to the state for delinquent taxes, but such lien shall be held in abeyance during the period the property is owned by the state and, immediately upon the title to the land passing from the state by virtue of a sale, such lien shall again become effective. And, likewise, *when any land is situated in a municipality and is subject to any special municipal benefit assessment which is secured by a lien on the land, such lien shall not be abated or cancelled on account of the sale of such land to the state for delinquent taxes*, but such lien shall be held in abeyance during the period such property is owned by the state and, immediately upon the title to the state passing from the state by virtue of a sale, such lien shall again become effective. [Emphasis added]

CONCLUSION

It is the opinion of this office that, once property is struck off to the state at a county tax sale, that property cannot be the subject of a subsequent sale, as title has already vested in the state. Furthermore, the tax collector is mandated to strike the land off to the state when it fails to bring a bid.

If this office may be of further assistance to you, please let us know.
Sincerely,

Jim Hood
Attorney General

By: Ellen O'neal
Special Assistant Attorney General

2010 WL 942878 (Miss.A.G.)

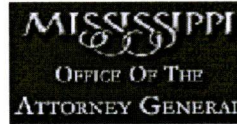
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◀ Term ▶ ◀ Best Section ▶

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