

1208.

APPROVAL, ABSTRACT OF TITLE TO LAND OF E. FREDERICK KRAFFT AND WIFE IN THE CITY OF MT. VERNON, KNOX COUNTY, OHIO.

COLUMBUS, OHIO, November 18, 1929.

HON. A. W. REYNOLDS, *Adjutant General of Ohio, Columbus, Ohio*

DEAR SIR:—You have re-submitted an abstract last continued by Charles L. Bermont, Abstracter, on July 27, 1929, and inquire as to the status of the title to the premises situated in the City of Mt. Vernon, County of Knox, State of Ohio, which are to be acquired for an armory site.

The premises owned by the City of Mt. Vernon are described as follows:

Lots No. 390, 391, and ten (10) feet off the east side of Lot No. 407, in Trimble's Addition to Mt. Vernon, County of Knox, and the State of Ohio, as the same are marked on the plat of said Addition in the Recorder's office of Knox County, Ohio in "J" Book, Volume "J", pages 123-124.

The premises owned by E. Frederick Krafft and wife are described as follows:

A part of the following described premises, in the City of Mount Vernon, Knox County, Ohio, to-wit: Being Inlot No. 390 in Trimble's Addition to said City, and being all of said lot No. 390 except that portion conveyed by Frederick Krafft and wife to the City of Mount Vernon, Ohio, by deed dated October 15th, 1870, which deed is of record in Vol. 63, page 365, of the Knox County Deed Records, and also excepting that portion of said lot conveyed by the said Frederick Krafft and wife to Frances S. Hoey by deed dated July 6th, 1872, which deed is of record in Vol. 76, page 70 of the Knox County, Ohio Deed Records, to both of which deeds reference is hereby made.

Also the following described real estate lying and being in the County of Knox, and State of Ohio, to wit: A strip ten (10) feet in width off of the east end of Inlot No. 407 in Trimble's Addition to the City of Mount Vernon, Knox County, Ohio, being in the first quarter of the sixth township and thirteenth range, U. S. M. Lands in said county and state; said strip being ten feet wide east and west and running the full width of said Inlot No. 407.

You also submit affidavits suggested by me in my letter of October 14th, 1929, which remedy the sole defects in the title apparent upon the former examination of the abstract.

After examination it is believed that said abstract discloses a sufficient title to said premises to be in the City of Mount Vernon and in E. Frederick Krafft and wife, free from encumbrances excepting the taxes for the year 1929, which are a lien upon said premises.

Examination has also been made of a deed executed by the city officials of Mount Vernon under the authority of Section 3631, General Code, and of a deed executed by E. Frederick Krafft and wife conveying the said premises to the State of Ohio, which deeds are believed to be in proper form and sufficient to

convey the title to said premises to the State of Ohio when the same are delivered.
Said abstract and deeds are being herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1209.

DELINQUENT TAXES—REALTY—OFFICERS DENIED RIGHT TO COMPROMISE.

SYLLABUS:

There is no provision of law authorizing any officer to compromise a claim for delinquent taxes and penalties on real estate.

COLUMBUS, OHIO, November 19, 1929.

HON. JOHN R. PIERCE, *Prosecuting Attorney, Celina, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your recent communication which reads:

“Where the county treasurer brings suit to foreclose on a delinquent tax certificate and where the facts show that the real estate liable for the tax, is mortgaged for more than its value, has the county treasurer or prosecuting attorney any authority to compromise in regard to the delinquent taxes, and furthermore, can the delinquent tax be satisfied before the property is resold by the mortgagee making payment, and if so, can the mortgagee be given title to the real estate?”

In the particular instance that I have in mind, a farm of 120 acres was offered for sale for delinquent taxes, and the mortgagees bid \$350, they being the highest bidder. The amount of taxes due with penalties and special assessments amounted to about \$1800, and the mortgagee's claim under the mortgage, amounts to about \$11,000, about \$5,000 which is in excess of the actual value at the present time.

The sale was set aside on the motion of the prosecuting attorney, on the ground that the mortgagee was not a party to the suit. Now the question is, as above set forth: Can a compromise be made whereby the bank as the mortgagee can come in before the farm is resold and discharge the delinquent tax lien for a less amount than stands charged against the property on the tax duplicate?”

In the case you present, you state that the sale was set aside on the motion of the prosecuting attorney on the ground that the mortgagee was not a party to the suit. Inasmuch as you state that the property was worth about six thousand dollars, it is assumed that the fact the mortgagee was not made a party, accounts for the property selling for the sum of three hundred fifty dollars.

Under Section 5718 of the General Code, it is the duty of the Auditor of State to cause foreclosure proceedings to be instituted in the name of the county treasurer