described tract of land and that the same is free and clear of all encumbrances except the taxes on the property for the year 1936 and the undetermined taxes thereon for the year 1937.

Upon examination of the warranty deed tendered by Frank T. Spikerman, a single man, I find that the same has been properly executed and acknowledged by said grantor under date of March 15, 1937, and that the form of this deed is such that the same conveys this property to the State of Ohio by fee simple title with a covenant of warranty that the property is free and clear of all encumbrances whatsoever.

Subject only to the exception above noted with respect to the taxes on the property for the years 1936 and 1937, I am approving the title of Frank T. Spikerman in and to this property and I am likewise herewith approving the warranty deed which he has tendered to the State for the purpose of conveying to it the above described property.

Contract encumbrance record No. 24, relating to the purchase of this property, has been properly executed and the same shows a balance in the appropriation account to the credit of your department sufficient in amount to pay the purchase price of this property, which purchase price is the sum of $580.00; the payment of which has likewise been approved by the Controlling Board. I am herewith returning to you with my approval said certificate of title, warranty deed and contract encumbrance record No. 24.

Respectfully,
HERBERT S. DUFFY,
*Attorney General.*

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APPROVAL—CERTIFICATE OF TITLE RELATING TO THE PROPOSED PURCHASE OF LOT IN McCUE'S LITTLE FARMS ALLOTMENT in GREEN TOWNSHIP, SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, May 11, 1937.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval certificate of title No. 56998 executed by The Northern Ohio Guarantee Title Company under date of March 2, 1937, certain deeds hereinafter

referred to, contract encumbrance record No. 26 and other files relating to the proposed purchase of Lot No. 9 in C. C. McCue's Little Farms Allotment in the west half of the northwest quarter of Section 19, Green Township, as surveyed by S. G. Swigart and Son, and recorded in Plat Book No. 36, page 7, Summit County Records.

This lot was owned by C. Clifton McCue at the time of his death in 1928. By his last will and testament this lot, together with all other property, real and personal, owned by C. Clifton McCue at the time of his death, passed by devise and bequest to his wife, Augusta M. McCue, C. Clifton McCue was heavily indebted at the time of his death and these debts, of course, were a lien upon the property of which he died seized.

On January 31, 1929, Augusta M. McCue, who had theretofore been appointed as executrix of the last will and testament of C. Clifton McCue, instituted an action in the Probate Court of Summit County for the sale of the above described and other property of which C. Clifton McCue died seized, for the purpose of paying his debts and those of his estate.

On March 14, 1930, Augusta M. McCue, as executrix of said estate, sold said Lot No. 9 to Steve Mitseff and Fota Mitseff and at that time, acting pursuant to order of court, she entered into a land contract with said Steve Mitseff and Fota Mitseff in and by which she contracted and agreed to convey said Lot No. 9 to Steve Mitseff and Fota Mitseff upon payment of the purchase price of the property, to wit, the sum of $1100.00. Thereafter, on March 2, 1932, Steve Mitseff and Fota Mitseff assigned all of their right, title and interest under said land contract with respect to Lot No. 9 in said allotment to one Helen Clements. Thereafter, on February 12, 1937, Augusta M. McCue executed a deed as executrix of the estate of C. Clifton McCue in and by which she conveyed said Lot No. 9 to Helen Clements, as the assignee of Steve Mitseff and Fota Mitseff. Thereafter, on March 18, 1937, Helen Clements conveyed this lot by warranty deed to Mattie V. Flower. And on the 20th day of March, 1937, Mattie V. Flower executed a warranty deed which she has tendered to the State. Said Lot No. 9, together with the reservations and exceptions therein stated, is described and set out in said deed as follows:

> Being Lot No. Nine (9) in C. C. McCue Little Farms Allotment in the west half of the northwest quarter of Section 19, Green Township, as surveyed by S. G. Swigart and Son, and recorded in Plat Book 36, Page 7, Summit County Records, together with all the hereditaments and appurtenances thereof, but subject to all legal highways, except-

> ing and reserving from the above described land a certain right of way of The Canton, Massillon and Akron Railroad Company extending through said property, as recorded in Volume 272, Page 613, of Summit County Records of Deeds, but subject to all legal highways, and subject to an easement for a telephone right of way to Charles E. Wise recorded in Volume 352, Page 59, of the records of deeds aforesaid, subject to an easement to The Tide Water Pipe Company, Limited, recorded in Volume 376, Page 565, of the Records of Deeds aforesaid, and subject to an oil and gas lease to The East Ohio Gas Company, recorded in Volume 1298, Page 3 of Summit County Records of Leases.

The reservation mentioned in the description of said lot in the deed last above referred to is a sixty-foot right of way which was granted to The Canton, Massillon and Akron Railroad Company in fee simple, by Charles A. Smith and Matilda Smith under date of August 14, 1901. This reservation which affects the lot here in question has been called to your attention in former opinions directed to you by me relating to other lots in this allotment which have been purchased through your department for the use of the Nimisila Creek Basin Reservoir Improvement and nothing further needs be said about this matter now. The same may be said with respect to an easement granted by Charles A. Smith under date of March 16, 1907, to one Charles E. Wise by which certain telephone line rights and easements were granted to said grantee. This matter has been referred to at length in former opinions relating to other lots in this addition. The same is true with respect to the right of way granted by said C. A. Smith to The Tide Water Pipe Company. These matters which are within your knowledge are encumbrances upon the lot here in question. The same is true of an oil and gas lease executed by C. Clifton McCue and his wife to The East Ohio Gas Company under date of August 16, 1928, covering an eighty-acre tract of land including the said Lot No. 9 which was thereafter laid out as a part of said allotment. All of these matters are exceptions to the title in and by which Mattie V. Flower owns and holds said Lot No. 9.

I note further in this connection two judgments, one rendered under date of March 29, 1932, in favor of The Real Estate Mortgage Company against Augusta M. McCue, and one rendered some time prior to March 28, 1934, in favor of Brown-Graves Company against C. C. McCue and Augusta M. McCue. Execution was levied on the first named judgment in the amount of $971.88 on August 25, 1934, and

execution was issued and levied on the other judgment in the sum of $368.00 on March 28, 1934. Both of these executions were levied upon said Lot No. 9 and upon other property which passed by devise under the last will and testament of C. Clifton McCue to Augusta M. McCue. However, these judgments and the executions issued on this lot in pursuance thereof do not constitute any exceptions to the title in and by which Mattie V. Flower now owns and holds this lot. This follows by reason of the fact that at the time the first judgment above mentioned was rendered and execution was issued thereon and at the time of the levy of the execution on the second judgment above mentioned, there was a proceeding pending in the Probate Court of Summit County to sell this lot, together with other property of the estate to pay the debts thereof. This proceeding under the law was a *lis pendens* with respect to said judgments and the executions thereof and for this reason the sale of these lots by the executrix passed the title to this lot upon conveyance, to the grantee named in the deed free and clear of the lien of said judgments and of said executions. See *Stewart, Administrator,* vs. *Wheeling and Lake Erie Railway Company,* 53 O. S., 151; *Stone* vs. *Equitable Mortgage Company,* 25 O. App., 382.

Some time prior to December 20, 1926, an assessment was levied on said Lot No. 9 in C. C. McCue's Little Farms Allotment for the improvement of South Main Street. This assessment was payable in twenty semi-annual installments of $10.41 each, beginning December 20, 1926. It appears from the abstract of title that delinquent assessments of former years and penalties thereon, amounting to $201.19, are a lien upon the property. It likewise appears that assessment installments for the first half and the last half of the year 1934, amounting to $20.82, are delinquent and that the same, together with penalties thereon, are a lien upon the property. It likewise appears that the assessment installments for the years 1935 and 1936 are unpaid and that the same, together with penalties thereon, are a lien upon the property. Needless to say, provision should be made for the payment of the delinquent assessment installments on this lot, together with penalties thereon, before the transaction for the purchase of this property is closed.

The following appears in the certificate of title with respect to the general taxes on said Lot No. 9:

> "General taxes of former years, amounting to $49.80 'Certified Delinquent' 1935, are a lien.
>
> Penalties, cost of advertising and certification, and interest are to be added to above taxes.

Taxes for the first half of 1935, amounting to $2.69, are delinquent; penalty 27 cents.

Taxes for the last half of 1935, amounting to $2.69, are delinquent; penalty 27 cents.

Taxes for 1936 are a lien."

In addition to this, it may be noted that the undetermined taxes for the year 1937 are likewise now a lien upon the property.

In addition to the exceptions above noted, it has occurred to me that there has been no determination of the inheritance taxes, if any, which accrued on the succession in and by which Augusta M. McCue took title to this property by the last will and testament of her deceased husband. It may be safely assumed in this connection, however, that the estate of C. Clifton McCue was so heavily involved in debt that no taxable succession accrued upon his death. Moreover, it is observed in this connection that in the case of In the Matter of the Estate of Columbus D. Saviers, Court of Appeals of Franklin County, Ohio, Case No. 2655, it is held that the lien of inheritance taxes imposed by the provisions of Section 5336, General Code, would not follow real property in the hands of a purchaser thereon on executor's sale. This decision by the Court of Appeals of Franklin County has apparently been approved by the Supreme Court in overruling motion to certify. I am inclined to the view, therefore, that any exception that may be suggested with respect to the matter of a a lien upon the above described lot and upon the lots and lands owned by C. Clifton McCue at the time of his death may be safely waived.

Upon examination of the deed executed by Augusta M. McCue, as executrix, in and by which she conveyed the above described lot to Helen Clements, as assignee of the rights and interests of Steve Mitseff and Fota Mitseff therein, was properly executed and acknowledged by said Augusta M. McCue and the form of said deed is such that the same was legally sufficient to convey the above described property to said Helen Clements by fee simple title. Likewise, the deed executed by Helen Clements and by Sampson D. Clements, her husband, in and by which she conveyed said lot to Mattie V. Flower, was properly executed and acknowledged under date of March 18, 1937, by said grantors and the form of this deed is such that the same was legally sufficient to convey this property by fee simple title to Mattie V. Flower.

As above noted, Mattie V. Flower has in turn executed a deed in and by which she is conveying said Lot No. 9 in C. C. McCue's Little Farms Allotment to the State of Ohio. This deed has been properly

executed and acknowledged by said Mattie V. Flower, who is a single person, and the form of this deed is such that the same conveys said lot subject to the reservation and exceptions therein noted to the State of Ohio, with a covenant of warranty that the same is free and clear of all encumbrances whatsoever. Each and all of the deeds above referred to are accordingly approved by me.

Contract encumbrance record No. 26, which has been submitted as a part of the files relating to the purchase of this property, has been properly executed and the same shows a balance in the appropriation account to the credit of your department, otherwise unencumbered, sufficient in amount to pay the purchase price of this property, which purchase price is the sum of $2600.00. Contract encumbrance record No. 26 is accordingly likewise approved by me. It is noted in this connection from recitals contained in said contract encumbrance record, as well as from other information at hand, that the purchase of this property has been approved in due course by the Controlling Board and that said Board has released from the appropriation account the money necessary to pay the purchase price of this property.

I am herewith returning to you said contract encumbrance record (which likewise covers Lots Nos. 7 and 8 in said allotment which you are purchasing from Lillian Olsen), the several deeds above referred to, contract encumbrance record No. 26 and other files relating to the purchase of said Lot No. 9.

Respectfully,
HERBERT S. DUFFY,
*Attorney General.*

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583.

ARCHITECTURAL FIRM — PARTNERSHIP LIABILITY—JUDGMENT AND EXECUTION—STATE BOARD OF EXAMINERS OF ARCHITECTS POWERS.

*SYLLABUS*:

1. *Each partner in an architectural firm is personally and individually liable for the entire amount of the partnership obligations. However, after reducing claims against the partnership to judgment, the judgment creditor may proceed against the non-partnership property of any individual partner in full satisfaction of his judgment.*

2. *The State Board of Examiners may adopt a resolution prohibit-*