

is, this notification actually brought to his personal attention the order of the township trustees.

The efficacy of service by registered mail has been recognized by the legislature in the enactment of Section 11297-1, General Code. This statute provides that the judges of the Common Pleas, Probate and Municipal Courts may, by rule, authorize the service of writs or processes by registered mail. Section 6308-2, General Code, also provides for a notice by registered mail to non-resident motorists by mailing an attested copy of the process served on the Secretary of State. In both of these cases notice by registered mail serves the purpose of informing a defendant that a civil suit has been commenced against him, which seems to be more important and of higher dignity than merely to order a person to cut noxious weeds growing on his lands. Consequently if registered mail is recognized as an efficient agency in serving notice in civil actions, a fortiori this method should certainly prove adequate in the case under consideration.

In view of the foregoing reasons I am of the opinion that notification by registered letter with a return receipt is sufficient within the purview of Section 7150 of the General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

888.

REAL ESTATE OUTSIDE OHIO—SALE WITH STATE—COMPLIANCE WITH SECTION 8624-47, GENERAL CODE—REPEATED SALES—OHIO SECURITIES ACT.

SYLLABUS:

1. *An individual owning real estate located outside of Ohio may not sell such real estate within this state without complying with the provisions of Section 8624-47, General Code, where such sales are to be made by such individual himself and where sales will be in the course of repeated and successive transactions.*

2. *A corporation, through its officers and regular salaried employes, is limited in the sale in this state of real estate located out of this state to one single transaction and may not sell such real estate by way of*

repeated or successive transactions, without complying with the Ohio Securities Act.

COLUMBUS, OHIO, July 20, 1937.

HON. ALFRED A. BENESCH, *Director of Commerce, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your letter of recent date which reads as follows:

"This Department desires your opinion on the following matter:

General Code Section 8624-47 in part reads as follows:

'No person, other than an actual bona fide owner selling for his own account in a single transaction and not by way of repeated or successive transactions or a person excepted by the provisions of the General Code, Section 6373-25, shall in this state sell, lease or otherwise deal in real estate or any interest in real estate not situated in this state, except as hereinafter specifically provided, until he shall be licensed under Section 18 or 19 and shall have complied with all the provisions of Sections 20 and 21 hereof, nor until he shall have qualified such real estate or interest in real estate as hereinafter provided.'

General Code Section 6373-25, reads in part as follows:

'Neither of the terms real estate broker or real estate salesman hereinbefore defined includes a person, firm or corporation, or the regular salaried employes thereof, who performs any of the aforesaid acts,

(a) With reference to real estate or any interest therein owned by such person, firm or corporation, or acquired on his or its own account in the regular course of it, or as an incident to the management of such property and the investment therein;'

In view of the foregoing provisions of G. C. 6373-25, may an individual owning real estate located outside of Ohio sell such real estate within this state without complying with the provisions of G. C. 8624-47 where such sales are to be made by such individual himself and where such sales will be in the course of repeated and successive transactions?

Likewise, without compliance with the provisions of G. C. 8624-47 may a corporation through its officers and regularly salaried employes sell in this state real estate not located in Ohio, such corporation being the bona fide owner of such real estate?"

It is quite apparent from a reading of Section 8624-47, General Code, that any person other than an actual bona fide owner selling for his own account in a single transaction and not by way of repeated or successive transactions or a person excepted by the provisions of Section 6373-25 of the General Code, who sells or otherwise deals in this state in real estate located in any other state is required to obtain either a dealer's license under Section 8624-18, General Code, or a salesman's license under Section 8624-19, General Code. The obvious purpose of Section 8624-47, *supra*, is to regulate a transaction within this state involving real estate situated out of this state in the same manner as are all other transactions in securities.

It is to be noted that under the provisions of Section 6373-25, General Code, a person, firm or corporation or the regular salaried employes thereof may sell real estate or any interest therein owned by such person, firm or corporation on its own account without obtaining a real estate broker's or real estate salesman's license. This would be true even though the sale of such real estate were in the course of repeated successive transactions. Opinions of the Attorney General for 1927, Vol. III, page 1032.

It might be argued by reason of the provision in Section 8624-47, General Code, which exempts persons excepted by Section 6373-25, General Code, from obtaining a dealer's or salesman's license that such persons would be permitted to deal in this state in real estate located outside of this state even though the sale of such real estate was in the course of repeated and successive transactions. However, such a construction would nullify the clear legislative intent evidenced by the first exception which specifically limits a sale of real estate by an actual bona fide owner to "a single transaction and not by way of repeated or successive transactions."

Section 8624-2, General Code, in defining the term "person" includes in such definition a natural person, firm and corporation. It would seem, therefore, that the first exception in Section 8624-47 would apply to firms and corporations as well as to natural persons so that a firm or corporation which is the actual bona fide owner of real estate located outside of Ohio is prohibited from selling such real estate in this state by way of repeated or successive transactions.

The only term used in Section 6373-25, General Code, not used in Section 8624-47, General Code, is "salaried employes". It certainly would be unreasonable to say that a salaried employe who may be the agent of a person, firm or corporation would be permitted to make sales in this state of real estate located out of this state by way of repeated or successive transactions where the law clearly prohibits the employer so to do. Such a construction would defeat the purpose for which

Section 8624-47, General Code, was enacted and it would nullify the first exception completely, for it would permit a person by indirection to do that which the law clearly prohibits him from doing directly.

In 37 O. Jur. p. 614, par. 339, I find the following statement with authorities cited:

“To interpret a law as to make it wholly nugatory is the last extremity to which judicial construction should go. When the act or section under consideration is equally susceptible of two constructions, one of which will maintain and the other destroy it, the courts should adopt the former. Accordingly, an interpretation should, if possible, be avoided, under which the statute or section or any part thereof is nullified, or, as otherwise expressed, defeated, abrogated, rendered useless, idle, needless, unnecessary, vain, nugatory, inoperative, void, meaningless, or, in general, without effect or significance.”

In view of the foregoing reasoning and in specific answer to your questions, I am of the opinion that:

1. An individual owning real estate located outside of Ohio may not sell such real estate within this state without complying with the provisions of Section 8624-47, General Code, where such sales are to be made by such individual himself and where sales will be in the course of repeated and successive transactions.

2. A corporation, through its officers and regular salaried employes, is limited in the sale in this state of real estate located out of this state to one single transaction and may not sell such real estate by way of repeated or successive transactions, without complying with the Ohio Securities Act.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

