

"Even although a receipt was given at the time in reliance upon which a person has bought the land."

Section 5671, General Code, reads in part as follows:

"The lien of the state for taxes levied for all purposes, in each year, shall attach to all real property subject to such taxes on the day preceding the second Monday of April, annually, and continue until such taxes, with any penalties accruing thereon, are paid."

In the case of *The Security Trust Co. vs. Root*, 72 O. S. 535, it was held that by virtue of this section,

"The lien of the state for taxes is paramount to all other liens."

It is therefore my opinion that the taxes in said case were legally restored to the tax duplicate and the situation is the same as it would have been had there been no receipt of said check for the payment of said taxes; said taxes are a lien paramount to all other liens and claims.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1798.

APPROVAL, ABSTRACT OF TITLE TO LAND OF OTIS P. MORRIS FOR THE SITE OF SCHOENBRUN, IN GOSHEN TOWNSHIP, TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, March 2, 1928.

Re: Approximately 111.39 acres of land in Goshen Township, Tuscarawas County, Ohio—Otis P. Morris.

HON. ROBERT H. NUSSDORFER, *Secretary of Committee for Purchase of Site of Village of Schoenbrun, Dover, Ohio.*

DEAR SIR:—Referring to Opinion No. 1546 of this department under date of January 7, 1928, you will note that upon an examination of the abstract of title of the lands and premises above noted, I found that said Otis P. Morris had a good and merchantable title to said premises, subject to certain exceptions therein stated.

The first exception noted in said opinion was with respect to the unpaid taxes for the year 1927. The corrected abstract now shows that said taxes have been paid.

Exception No. 4 noted in said opinion was with respect to a certain oil and gas lease executed by said Otis P. Morris and wife in favor of The Ohio Fuel Gas Company on August 25, 1926. Said oil and gas lease has been presented to me with the notation thereon showing that under date of January 25, 1928, a release and cancellation of said oil and gas lease was executed by The Ohio Fuel Gas Company, and that said lease on January 26, 1928, was cancelled, of record on the Record of Leases of Tuscarawas County, Ohio.

Exceptions Nos. 2 and 3 noted in the opinion above referred to have reference to certain licenses or easements executed by said Otis P. Morris to The Ohio Service

Company, authorizing said The Ohio Service Company to enter in and upon said lands and premises and to erect thereon certain towers, poles and lines for the purpose of transmitting electric power and for the purpose of installing thereon telegraph and telephone lines. There has been no change in the matters referred to in said exceptions.

I am advised that your committee is of the view that the construction and installation of the towers, poles and wires contemplated by these easements will not interfere with the purpose for which this property is being purchased by your committee, and that it is your intention to purchase said lands and premises subject to said easements.

I have examined the Warranty Deed executed by said Otis P. Morris and Noramanda Morris, his wife, conveying said premises to the State of Ohio. Said Warranty Deed is properly executed, contains an accurate description of the lands to be conveyed, and is in proper form to convey a fee simple title to said premises to the State of Ohio, the grantee therein named, subject to the easement of The Ohio Service Company above referred to.

There has been presented to me a satisfactory certificate showing that the purchase of said lands and premises has been approved by the Controlling Board.

The encumbrance estimate with respect to the purchase of said property has likewise been examined and the same shows that there are unexpended balances in the appropriation account sufficient to pay the purchase price of said property.

Assuming that it is satisfactory to your committee, as before noted, to purchase said lands, subject to the right of The Ohio Service Company to erect the towers, poles and wires provided for in the license or easement given to it by said Otis P. Morris, the purchase of said lands and premises and the proceedings relating thereto are hereby approved.

I am herewith transmitting to you said abstract of title, warranty deed, appropriation account, encumbrance estimate and certificate of the action of the Controlling Board above referred to.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1799.

COMMON PLEAS COURT—JURY AND WITNESS FEES—SECTION 5625-33,
GENERAL CODE, DISCUSSED.

SYLLABUS:

1. *A Common Pleas Judge is without authority to incur obligations on behalf of the county without complying with the terms of Section 5625-33, General Code.*

2. *Jury fees and witness fees, for which a county is liable, can be paid only from appropriations made for that purpose.*

COLUMBUS, OHIO, March 3, 1928.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your communication as follows:

“We respectfully request your written opinion on the following matter submitted by one of our State Examiners: