

OPINION
46-272

May 4, 1946 (OPINION)

TAX DEED PROCEEDINGS

RE: Immediate Family

Re: Section 57-2819 - "Immediate Family"

Your letter of May 2, asking for a construction of section 57-2819, addressed to the attorney general, has come to my desk.

You state that a grandson of the former owner of land forfeited to the county by tax deed offers to repurchase the land under the provisions of the above section, and you wish our opinion as to whether or not the grandson is entitled, under the terms of that section, to repurchase.

The best definition of "family" and "immediate family" which I have found is that given on page 103 of Volume 20 of the Permanent Edition of Words and Phrases, where it says:

"The primary meaning of the word 'family' as used in our language to specify a definite group of persons, is 'the collective body of persons who form one household under one head and one domestic government, including parents, children, and servants' quoting and adopting definition in Century Dict. In construing a writing in which the word 'family' is used, this primary meaning should be assumed in determining the expressed intention of the writer unless there is something in the context to show that it is used in some other meaning. The same person may be either a member of the 'immediate family' of the insured or one of his 'blood relatives.' Both groups are composed of persons of the same 'family' with the member; in the former reference being had to the primary meaning of family as denoting members of the one household, gathered around one head, and in the latter to 'family' as denoting individuals related through descent from one stock. Family is frequently used to denote those connected by the tie of common descent as well as that of a common household. The words 'immediate family' are used in this connection to indicate a group of persons of which the insured is one connected as one family and from which is excluded any member who has become separated from the group as constituting one household, and 'immediate family' certainly includes all persons bound together by the ties of relationship and parents and children living together as members of one household under one head. Dalton v. Knights of Columbus, 67 A. 510, 511, 512, 80 Conn. 212, 125 Am. St. Rep. 116, 11 Ann, Cas. 568, citing Town of Cheshire v. Town of Burlington, 31 Conn. 326, 329; Hart v. Goldsmith, 51 Conn. 479, 4780; Wood v. Wood, 28 A. 520, 63 Conn. 324, 327; Crosgrove v. Crosgrove, 8 A. 219, 69 Conn. 416, 422; Knights of Columbus v. Rowe, 40 A. 541, 70 Conn. 545, 550; Hoadly v. Wood, 42 A. 263, 71 Conn. 452, 456."

Under the language of this statute, it is our opinion that the Legislature did not intend to give the right of repurchase to all of the heirs of the deceased former owner, for if that had been the intent, it would have been easy to use language to express that intent. It seems that in a number of legislative acts of the last two sessions the Legislature has given rights of redemption and repurchase to mortgagors who had lost their land on foreclosure, and owners who had lost their land on tax proceedings, with a view to maintaining the family of the person in default, rather than giving a special privilege to someone who might be related to the person in default. It was apparently this thought in the minds of the framers of this legislation that induced them to use the words "immediate family," rather than "heirs or assigns." Under the reasoning of the foregoing citations, it is our opinion that the grandson would not be entitled to redeem, unless he were at the time of the death of the former owner actually a member of his family residing with him under his roof.

In the present case, the disparity between the appraised value and the actual tax due is so great that if this grandson wishes to test his rights in court, it would give an opportunity for an early court construction of this statute.

NELS G. JOHNSON

Attorney General