

OPINION  
52-41

February 5, 1952 (OPINION)

COUNTIES

RE: Register of Deeds - Recording by Pasting Copy in Record Book

In yours of the first of February, you ask this question:

Can the pasting of a true copy of a written instrument involving real estate in the books ordinarily used for the recording of patents, deeds, mortgages and miscellaneous instruments, constitute a recording of said instruments as defined by statute?"

You wish our written opinion as to whether the practice above outlined is permissible under the provisions of chapter 47-19 of our code.

There is nothing in this chapter which, in terms, authorizes such practice. The courts have held:

'Recording' means copying instrument to be recorded into public records in books kept for that purpose by or under superintendence of officer therefor."

White v., Stannis, 151 Miss. 765

118 So. 902, 904.

The term is defined as copying an instrument into the public records in a book kept for that purpose by or under the superintendence of the officer appointed therefor."

Beatty v. Hughes, 61 Cal. App. 2d. 489

143 P.2d. 110, 111.

The word 'recorded' in ordinary usage signifies copied or transcribed into some permanent book."

Cady v. Purser, 131 Cal. 552, 557,

63. P. 844, 82 Am. St. Rep. 391.

Official documents are required to be recorded "by copying them at length in a book of records to be kept for such purpose".

Federal Const. Co. V. Curd, 179 Cal. 479, 486; 177 P. 473.

In Anderson's Law Dictionary the term "recording" is defined "copying an instrument into the public records in a book kept for that purpose by or under the superintendence of the officer appointed therefor."

It is, therefore, our opinion that the register has not performed his duty when he merely pastes a copy of an instrument in some book. Such process is clearly not "recording" it.

It would seem to us that the Legislature has provided a method by which the work of the register may be lightened considerably. Section 11-1019 N.D.R.C. 1943 provides that the county commissioners may provide for the making of photographic or photostatic copies of any instrument and the filing and keeping of such copy instead of recording it in a book in the ordinary way. In this way perfect copies of instruments no matter how fine the printing could be made in much less time than it would take for copying them by handwriting or typewriting. This would seem to be a solution for your difficulties.

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