

OFFICE OF THE ATTORNEY GENERAL

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Honorable Arthur C. Murray
Judge of Probate, Calhoun County
Anniston, AL 36201

Probate Judges - Ad Valorem Taxes - Tax Sales

Judge of Probate is not authorized under Code of Alabama 1975, §40-10-29 to execute a deed to the executor of the estate of deceased purchaser at property tax sale.

Dear Judge Murray:

Your request for an opinion from the Attorney General dated August 4, 1982 has been referred to my desk for reply.

Your request for an opinion states in pertinent part as follows:

A question has arisen in my office concerning the issuance of a tax title deed after the death of the certificate holder to the Executor under the Last Will and Testament of the deceased certificate holder.

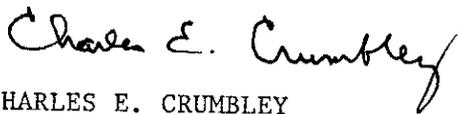
The question which has arisen is as follows:

"Where the purchaser at tax sale died before expiration of the period for redemption without assigning his/her certificate except by his/her Last Will and Testament, which has been duly probated, is the Judge of Probate authorized under 40-10-29, Code of Alabama 1975, to execute a deed to the Executor of the estate of the deceased purchaser at tax sale?"

In my opinion, your question must be answered in the negative. Previous opinions of this office have held that Section 40-10-29 is a purely statutory right of the purchaser at a tax sale that is not such property as will pass by descent and distribution. Quarterly Report of Attorney General, Vol. 59, page 103; See also Alexander v. Savage, 90 Ala. 383, 8 So. 93 (1980). Thus, in the absence of an assignment of the certificate of purchase by endorsement on the certificate or by other writing purporting to be an assignment of the particular certificate, a judge of probate is not authorized to execute a deed either to the decedent's heirs, legatees, or devisees, or to his personal representative.

Very truly yours,

CHARLES A. GRADDICK
Attorney General, State of Alabama
By-



CHARLES E. CRUMBLEY
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