

OFFICE OF THE ATTORNEY GENERAL



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JIMMY EVANS
ATTORNEY GENERAL
STATE OF ALABAMA

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 242-7300

Honorable Wayne Teague
State Superintendent of Education
5114 Gordon Persons Building
Montgomery, Alabama 36130

Boards of Education - Deeds -
Reversions - State
Superintendent of Education

Act No. 187, Acts of Alabama
1919, creates a vested right of
remainder in property deeded to
the State for public education
purposes, for nominal consider-
ation between July 28, 1919,
and October 1, 1927. The facts
of this particular transaction
lead to the conclusion that a
further determination is
necessary prior to allowing the
property to revert to the heirs
of the original grantors.

Dear Dr. Teague:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

The State of Alabama holds title to
four contiguous parcels of land at the
Mooreville-Belle Mina School site in
Limestone County. The Limestone County
Board of Education has determined that the

Mooreville-Belle Mina School should be closed. Heirs of the original grantors of this property contend that the property should revert to them by virtue of Act No. 187, Acts of Alabama 1919, as property donated for school purposes for nominal consideration. Does this property revert to the heirs of the original grantors pursuant to Act No. 187, Acts of Alabama 1919, and, if so, what procedure should be utilized by the State Superintendent of Education to deed this property back to the original grantors?

FACTS AND ANALYSIS

Your request presents the following facts:

The State of Alabama holds title to four contiguous parcels of land at the Mooreville-Belle Mina School site in Limestone County. Two and one-half acres of this property was deeded to the State of Alabama on September 1, 1917, for \$5.00. Two and one-half acres of this property was deeded to the State of Alabama on August 30, 1924, for \$250.00. A third parcel of land consisting of two and one-half acres was deeded to the State of Alabama on September 26, 1917, for \$5.00. The fourth parcel of land consisting of approximately one acre was deeded to the State of Alabama on August 4, 1926, for \$50.00. The Limestone County Board of Education has determined that the school located at the Mooreville-Belle Mina School site should be closed. Heirs of the original grantors of the four pieces of property have now requested the Limestone County Board of Education to deed this property back to them as a result of a reversionary interest they believe is created by Act No. 187, Acts of Alabama 1919.

Act No. 187, Acts of Alabama 1919, provides:

"That when any lands are donated to the State as sites for a rural public school, and deeded to the State for a nominal consideration as a donation, and the use thereof for public school purposes is thereafter permanently abandoned for such purpose, the title to the land so deeded shall revert to the original owner, . . . "

On January 26, 1943, the Attorney General of the State of Alabama issued an opinion concerning Act No. 187. That opinion of the Attorney General held that Act No. 187 had been repealed by the Legislature's passage of the Alabama School Code of 1927. In particular, the Attorney General held:

"Act No. 187, supra, was not placed in the 1923 Code. It was, however, not repealed by such omission because of Section 12 of the 1923 Code.

"The laws relating to public schools in education were, however, codified into the Alabama School Code of 1927. This Code became effective on the first day of October, 1927, in pursuance of the Governor's proclamation contained in such Code. Act No. 187, supra, was not contained in the Alabama School Code of 1927 and was, therefore, in my opinion, repealed as of the first of October, 1927.

"The law is well settled in Alabama; however, that when a statute such as this is repealed, vested rights which have accrued under such a statute remain. Blake v. State, 178 Ala. 407, 59 So. 623. It is, therefore, my opinion that those persons that deeded land to the State for public school purposes for a nominal consideration in accordance with Act No. 187, supra, between July 28, 1919 and October 1, 1927, acquire a vested right of remainder as outlined in said Act and are, therefore, still entitled to the reversion mentioned therein, when such land is abandoned for school purposes."

This opinion of the Attorney General was affirmed by a May 12, 1977, opinion of the Attorney General addressed to the Honorable Joe R. Sport, Superintendent, Crenshaw County public schools.

An examination of the records reflecting the four transfers of property forming the basis of the Mooresville-Belle Mina School site reveals the following information:

Two and one-half acres of this property was deeded to the State of Alabama on September 1, 1917, for \$5.00.

Two and one-half acres of this property was deeded to the State of Alabama on August 30, 1924, for \$250.00.

Two and one-half acres was deeded to the State of Alabama on September 26, 1917, for \$5.00.

One acre was deeded to the State of Alabama on August 4, 1926, for \$50.00.

Clearly, the September 1, 1917, transaction and the September 26, 1917, transaction are not subject to a reversionary interest since these transactions were completed prior to July 28, 1919, the effective date of Act No. 187. The transfer completed August 30, 1924, may not be a transaction for "nominal consideration." This transaction consisted of two and one-half acres of land with a total consideration of \$250.00. Although it is not possible to definitively say that a price of \$100.00 per acre for land in 1924 is not nominal consideration, it appears that a sufficient question is created by this situation so as to advise the State Superintendent of Education to decline to deed property to heirs of the original grantors without a more definitive determination. The fourth parcel of land consisted of approximately one acre and was deeded to the State of Alabama on August 4, 1926, for a consideration of \$50.00. Once again, a factual question exists whether the consideration of \$50.00 for one-half acre of land is nominal consideration. Additional facts supplied by the Department of Education indicate that the fourth parcel of land deeded on August 4, 1926, was involved in a swap of two pieces of land between the Limestone County Board of Education and the original grantor of the other three parcels of land. When coupled with the argument that the 1926 transaction may not

have been a transaction for nominal consideration, this additional fact leads to the strong conclusion that the fourth parcel of land should not be deeded to the heirs of the original grantors without a more definitive determination of the facts and circumstances surrounding that transaction.

Therefore, the State Superintendent of Education should be extremely cautious in deeding the property that was the subject of the 1924 transaction and the property that was the subject of the 1926 transaction without a more definitive determination of the facts and circumstances surrounding each of these transactions. Facts, such as the prices paid for similar pieces of property in Limestone County in 1924 or 1926, would clearly be relevant to a determination of whether the price of \$100.00 per acre amounts to nominal consideration.

CONCLUSION

Act No. 187, Acts of Alabama 1919, was repealed by the passage of the Alabama School Code of 1927. However, property deeded to the State for public school purposes for a nominal consideration between July 28, 1919, and October 1, 1927 (the effective date of the passage of the Act and the effective date of the School Code of 1927), may have attached to it a vested right of remainder. The facts of this particular transaction are such that two of the four pieces of property are clearly outside of the scope of Act No. 187 and the remaining two pieces of the property may be outside of the scope of Act No. 187 in that the property may not have been deeded for nominal consideration or was a part of another land transaction that was not for nominal consideration.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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