

1976 S.C. Op. Atty. Gen. 422 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4551, 1976 WL 23167

Office of the Attorney General

State of South Carolina

Opinion No. 4551

December 22, 1976

***1 Execution may be had upon a single parcel of property for unpaid taxes and the proceeds from the sale of such property may be applied to the payment of the taxes upon the parcel sold as well as the unpaid taxes upon other property of the defaulting taxpayer. Should there be creditors secured by the parcel sold, they would have to be satisfied before the proceeds could be applied to the unpaid taxes on the other parcels.**

Tax Collector
County of Aiken

You have presented the following question:

Where a person is the owner of several different or separate parcels of realty and fails to pay the tax thereon, is it lawful to levy upon a single parcel and apply the proceeds to satisfy the tax as to all parcels?

Sections 65–2703 and 65–2761 provide that any property of a defaulting taxpayer may be levied upon and sold for nonpayment of taxes. Our Court, in the case of *Vallentine v. Robinson*, 188 S. C. 194, 198 S. E. 197, held:

‘It is a common assumption that a tax execution is issued against the property; such is not the case; it is issued against the defaulting taxpayer. The assessed taxes are a debt due to the State by the owner of the property. Section 2569, Civil Code, 1932, declares that: ‘All taxes, assessments and penalties legally assessed shall be considered and held as a debt payable to the State by a party against whom the same shall be charged.’

‘And the taxes may be made out of any property the taxpayer has. It is thus seen that the execution must issue against the true owner of the property.’

It is thus clear that one parcel may be sold and the proceeds used to satisfy taxes due upon that parcel as well as other taxable property of the defaulting taxpayer. Where, however, there are secured creditors on the property sold, such creditors would have to be satisfied before the proceeds could be applied to delinquent taxes on other parcels.

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