

## Chapter 312

### Foreclosure of Property Tax Liens

#### 312.010

##### NOTES OF DECISIONS

The statute became operative in 1939, notwithstanding the impossibility of literal compliance in that year. *Childs v. Marion County*, (1940) 163 Or 411, 97 P2d 955.

FURTHER CITATIONS: *United States v. Howard*, (1966) 254 F Supp 499; *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221.

ATTY. GEN. OPINIONS: Applicability to realty of farmer who has filed petition in bankruptcy, 1938-40, p 633; including all taxes delinquent at time of foreclosure if any delinquent three years or more, 1940-42, p 125.

#### 312.030

##### NOTES OF DECISIONS

The provisions of this section as to the time when the tax collector shall prepare the foreclosure list and as to the amount of property the list should contain are not mandatory but were designed to secure order, system and dispatch. *Childs v. Marion County*, (1940) 163 Or 411, 97 P2d 955; *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

Under the present system of tax foreclosure not all statutory steps are jurisdictional. *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

If the description in the assessment roll satisfies all constitutional and statutory requirements, the same description when copied in subsequent proceedings is sufficient. *Id.*

The foreclosure list need not contain the names of the true owners. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

FURTHER CITATIONS: *Champ v. Stewart*, (1949) 186 Or 656, 208 P2d 454; *Multnomah County v. Reed*, (1954) 203 Or 21, 278 P2d 135.

ATTY. GEN. OPINIONS: Provisions as directory, 1938-40, p 434; specification of day for institution of foreclosure proceedings as mandatory, 1940-42, p 90; including all taxes delinquent at time of foreclosure if any delinquent three years or more, 1940-42, p 125.

#### 312.040

##### NOTES OF DECISIONS

A decree foreclosing the liens of delinquent taxes is void if the published notice included neither the name of the owner nor that of the person listed as owner in the latest tax roll. *Murphy v. Clackamas County*, (1953) 200 Or 423, 264 P2d 1040, 266 P2d 1065; *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009. *Murphy v. Clackamas County*, supra, distinguished in *Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

The increased burden of taxation resulting from the cost of preparing and publishing the notice required gives a

taxpayer the right to invoke the Declaratory Judgment Act and obtain a determination of the validity of proceedings taken. *Childs v. Marion County*, (1940) 163 Or 411, 97 P2d 955.

The description of property on the assessment roll and foreclosure list is presumed to properly identify the property, and where not rebutted, the court has jurisdiction in the foreclosure proceeding. *Champ v. Stewart*, (1949) 186 Or 656, 208 P2d 454.

Notice of tax foreclosure by publication of foreclosure list over the sheriff's signature does not have to run in the name of the State of Oregon. *Id.*

Notice by publication is adequate for tax foreclosure sales. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

The description of land given in the foreclosure list is the proper one for foreclosure suits. *Id.*

Party defendant to foreclosure suit is required to take notice that upon expiration of redemption period the sheriff is required to deed property to county and deed terminates right of redemption. *Otto & Harkson Co. v. Josephine County*, (1956) 207 Or 199, 295 P2d 875.

The property description should at least meet the standard set out in ORS 308.240(2). *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

The court does not obtain jurisdiction if the property which is the purported res is not adequately described in the notice. *Id.*

Publication as provided by the statute is adequate notice to satisfy due process requirements. *Cascade Tree Farms, Inc. v. Clackamas County*, (1968) 250 Or 401, 442 P2d 606.

The notice adequately described the property. *Id.*

FURTHER CITATIONS: *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285; *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925; *Jackson County v. Fehl*, (1945) 176 Or 154, 155 P2d 312; *Peer v. Claremont*, (1960) 188 F Supp 641.

ATTY. GEN. OPINIONS: Requisites of notice, 1938-40, p 424; newspapers in county acting as entity for publication, 1938-40, p 612.

#### 312.050

##### NOTES OF DECISIONS

###### 1. In general

Foreclosure proceedings are in rem. *Rae v. Morgan*, (1928) 125 Or 644, 266 P 1069, 267 P 1072; *Coy v. Title Guar. & Trust Co.*, (1919) 257 Fed 571; *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285; *Linn County v. Rozelle*, (1945) 177 Or 245, 162 P2d 150.

Not all statutory steps in foreclosing tax lien are jurisdictional. *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

The requirement that the foreclosure proceedings shall be instituted "on the day which is six months after the day of delinquency of taxes of the latest year" is only directory. *Id.*

Tax foreclosure proceedings are in rem against the property itself and therefore it is essential that the property be correctly described. *Champ v. Stewart*, (1949) 186 Or 656, 208 P2d 454.

Since a tax foreclosure is in rem, the omission of the owner's name in the caption of the suit had no effect on its validity. *Harriman v. Linn County*, (1953) 200 Or 1, 264 P2d 816. *Distinguished in Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

#### 2. Under former similar statute

It was sufficient to make those persons parties which the law directs that it should, and it was not fatal that the real owner should not have been made a party codefendant. *Coy v. Title Guar. & Trust Co.*, (1919) 257 Fed 571.

The real owner could defend in his own name when his identity was revealed, and substitution of a dissolved corporation's grantee was valid, although unnecessary to a defense by him in the grantor's name. *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285.

In an omnibus tax foreclosure proceeding by the county, a person whose name as owner of one of the tracts involved was entered in the latest tax roll in the hands of the sheriff for collection, and who was record owner when the suit was filed, was properly made the party defendant in that suit, and it was not necessary to name another person who was in possession and claimed title by adverse possession. *Linn County v. Rozelle*, (1945) 177 Or 245, 162 P2d 150.

It was not essential to the validity of a notice in tax foreclosure proceedings that any person other than the person appearing on the latest tax roll in the hands of the tax collector at the date of the first publication of such notice, as the owner of any property therein described, should be named as a party defendant in the notice. *Lane County v. Bristow*, (1946) 179 Or 653, 173 P2d 954.

FURTHER CITATIONS: *Guthrie v. Haun*, (1938) 159 Or 50, 76 P2d 292; *Childs v. Marion County*, (1940) 163 Or 411, 97 P2d 955; *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

ATTY. GEN. OPINIONS: Provisions as directory, 1938-40, p 434; including all taxes delinquent at time of foreclosure if any delinquent three years or more, 1940-42, p 125; necessity to institute foreclosure proceedings each year, 1946-48, p 295.

#### 312.060

##### NOTES OF DECISIONS

The failure separately to state the annual delinquencies constituted an "error or informality" on the tax collector's part which could have been presented as an objection or defense to the application for judgment and decree. *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

Where in complaint the statement in the foreclosure list was exactly reproduced in the published notice and summons, though the list showed only the lump sum due and not each separate annual delinquency, plaintiff was not prejudiced as to any of her rights to cause removal of her property from the foreclosure proceedings. *Id.*

FURTHER CITATIONS: *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564; *Multnomah County v. Reed*, (1954) 203 Or 21, 278 P2d 135; *Van Natta v. Columbia County*, (1963) 236 Or 214, 388 P2d 18; *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

ATTY. GEN. OPINIONS: Filing of application as beginning the "process of foreclosure" within meaning of ORS 312.310, 1948-50, p 29.

#### 312.070

CASE CITATIONS: *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

ATTY. GEN. OPINIONS: Effect of irregularity in tax foreclosure decree, 1960-62, p 122.

#### 312.090

##### NOTES OF DECISIONS

A decree foreclosing the liens of delinquent taxes is void if the published notice included neither the name of the owner nor that of the person listed as owner in the latest tax roll. *Murphy v. Clackamas County*, (1953) 200 Or 423, 264 P2d 1040, 266 P2d 1065. *Distinguished in Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

ATTY. GEN. OPINIONS: Final decree ordering foreclosure and sale as termination of "process of foreclosure" within meaning of ORS 312.310, 1948-50, p 29.

#### 312.100

CASE CITATIONS: *Mallory v. Gruberman*, (1949) 185 Or 82, 202 P2d 281.

ATTY. GEN. OPINIONS: Where county acquires lands at tax foreclosure sale prior to delinquency, omitted taxes for current year as required to be placed on tax roll for purpose of determining basis of distribution of proceeds of sale, 1942-44, p 165; final decree ordering foreclosure and sale as termination of "process of foreclosure" within meaning of ORS 312.310, 1948-50, p 29; foreclosure of timber on federal lands, 1954-56, p 137; taxpayers' personal liability after foreclosure and sale of property, 1958-60, p 374.

#### 312.110

##### NOTES OF DECISIONS

Not all statutory steps are jurisdictional. *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

Where in complaint the statement in the foreclosure list was exactly reproduced in the published notice and summons, though the list showed only the lump sum due and not each separate annual delinquency, plaintiff was not prejudiced as to any of her rights under this section. *Id.*

FURTHER CITATIONS: *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221.

ATTY. GEN. OPINIONS: Redemption from tax foreclosure sale after entry of decree, 1938-40, p 616.

#### 312.120

##### NOTES OF DECISIONS

The right of the record owner at time of foreclosure to redeem is not extinguished until the execution of the deed to the county. *Mallory v. Gruberman*, (1949) 185 Or 82, 202 P2d 281.

When the redemption period has passed the delinquent taxpayer has no interest in the property since it is owned by the county. *Bursell v. Brusco*, (1954) 203 Or 37, 275 P2d 873.

Payment of taxes by one who has no interest in the property redounds to the benefit of the owner of the property. *Willis v. Stager*, (1971) 257 Or 608, 481 P2d 78.

FURTHER CITATIONS: *Champ v. Stewart*, (1947) 181 Or 300, 181 P2d 780; *Jaquith v. Hartley*, (1966) 243 Or 27, 411 P2d 274.

ATTY. GEN. OPINIONS: Purchaser from judgment creditor after foreclosure sale as permitted to redeem, 1940-42, p 237; where county acquires land at tax foreclosure sale prior to delinquency, omitted taxes for current year as required to be placed on tax roll for purpose of determining basis of distribution of proceeds of sale, 1942-44, p 165; a minor redeeming tax-foreclosed property inherited from her mother if the mother's death occurred before the issuance of the tax deed to the county, 1944-46, p 280; redemption of part of tax foreclosed parcel, 1964-66, p 22.

## 312.140

## NOTES OF DECISIONS

Defective tax foreclosure notice deprives the court of jurisdiction. *Peer v. Claremont*, (1960) 188 F Supp 641.

## 312.190

## NOTES OF DECISIONS

Failure to publish notice of expiration of redemption period is not jurisdictional to execution of deed to county, and therefore the want thereof cannot be challenged by a collateral attack. *Otto & Harkson Co. v. Josephine County*, (1956) 207 Or 199, 295 P2d 875. **Distinguished in** *Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

A published notice stating that the period of redemption expired on June 25, where the statutory period of one year ended on June 23, was not fatally defective but was a compliance with this section. *Mallory v. Gruberman*, (1949) 185 Or 82, 202 P2d 281.

A statement in the deed declaring that due notice had been given was sufficient under this section. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

A statement in the deed declaring that due notice had been given was sufficient under this section. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564. **Distinguished in** *Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

FURTHER CITATIONS: *Lane County v. Bristow*, (1952) 179 Or 653, 173 P2d 954.

## 312.200

## NOTES OF DECISIONS

The right of the record owner at time of foreclosure to redeem is not extinguished until the execution of the deed to the county. *Mallory v. Gruberman*, (1949) 185 Or 82, 202 P2d 281.

When the redemption period has passed the delinquent taxpayer has no interest in the property since it is owned by the county. *Bursell v. Brusco*, (1954) 203 Or 37, 275 P2d 873.

Failure to publish notice of expiration of redemption period is not jurisdictional to execution of deed to county, and therefore the want thereof cannot be challenged by a collateral attack. *Otto & Harkson Co. v. Josephine County*, (1956) 207 Or 199, 295 P2d 875.

FURTHER CITATIONS: *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

ATTY. GEN. OPINIONS: Authority of county court to sell lands acquired by tax foreclosure to record owner after period of redemption has expired, 1942-44, p 135; transferring or donating property to city, 1964-66, p 189.

## 312.214 to 312.220

LAW REVIEW CITATIONS: 4 WLJ 551, 553.

## 312.214

CASE CITATIONS: *Hood River County v. Dabney*, (1967) 246 Or 14, 423 P2d 954; *Chizek v. Port of Newport*, (1969) 252 Or 570, 450 P2d 749.

## 312.216

CASE CITATIONS: *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009; *Hood River County v. Dabney*, (1967) 246 Or 14, 423 P2d 954.

## 312.218

## NOTES OF DECISIONS

The legislature cannot make actual possession exist when in fact it does not and, therefore, this statute is merely a statute of limitations which purports to bar those who claim an interest in tax foreclosed land. *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

FURTHER CITATIONS: *Hood River County v. Dabney*, (1967) 246 Or 14, 423 P2d 954.

## 312.220

## NOTES OF DECISIONS

Under former similar statutes, the owner of property described in a certificate of delinquency, which was under foreclosure, was required to present in the tax foreclosure suit any and every defense which he possessed; and, the decree and judgment in such suit adjudicated not only defenses submitted, but all those that could have been submitted, such as irregularity in respect to segregation of property and apportionments of the tax. *Linn County v. Rozelle*, (1945) 177 Or 245, 162 P2d 150.

An erroneous decree cannot be successfully challenged by a collateral attack if the court rendering it had jurisdiction. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564. **Distinguished in** *Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

A tax foreclosure decree is not subject to collateral attack if the court had jurisdiction over the property and the proceedings. *Van Natta v. Columbia County*, (1963) 236 Or 214, 388 P2d 18.

Judgments of the circuit court in tax foreclosure proceedings are entitled to the same intendments and presumptions as are judgments of the same court when exercising common-law jurisdiction. *Id.*

All defects in tax foreclosure proceedings are to be deemed nonjurisdictional unless they deprive the taxpayer of his constitutional right to due process of law. *Hood River County v. Dabney*, (1967) 246 Or 14, 423 P2d 954. **Distinguishing** *Elliott v. Clement*, (1944) 175 Or 44, 149 P2d 985, 151 P2d 739; *Champ v. Stewart*, (1949) 186 Or 656, 208 P2d 454; and *Keerins Bros. v. Mauney*, (1950) 189 Or 651, 219 P2d 753, 222 P2d 730.

The port, a public body, was not barred from a collateral attack. *Chizek v. Port of Newport*, (1969) 252 Or 570, 450 P2d 749.

FURTHER CITATIONS: *Nickum v. Gaston*, (1895) 28 Or 322, 42 P 130; *Jaquith v. Hartley*, (1966) 242 Or 27, 411 P2d 274; *Johnson v. State*, (1966) 245 Or 618, 418 P2d 509, 423 P2d 964.

ATTY. GEN. OPINIONS: Legality of foreclosure by a county of land located in another county, 1950-52, p 57; effect of irregularity in tax foreclosure decree, 1960-62, p 122; defects existing prior to foreclosure, 1960-62, p 326.

LAW REVIEW CITATIONS: 28 OLR 184; 4 WLJ 550.

## 312.230

## NOTES OF DECISIONS

Although plaintiff, the owner at the time of the foreclosure, was not named in the foreclosure proceedings, his action is barred by the statute of limitations. *Johnson v. State*, (1966) 245 Or 618, 418 P2d 509, 423 P2d 964; *Deardorff v. Hood River County*, (1967) 246 Or 7, 423 P2d 952.

The legislature has the constitutional power to cut off the interest of the delinquent owner, even though the foreclosure decree is void for lack of jurisdiction if the owner is given a reasonable time to attack the void decree. *Hood River County v. Dabney*, (1967) 246 Or 14, 423 P2d 954; *Evergreen Tbr. Co. v. Hood River County*, (1967) 246 Or 11, 423 P2d 963; *Morgan v. Bd. of Forestry*, (1968) 250 Or 460, 443 P2d 236, app. dis., 393 US 529, 89 S Ct 854, 21 L Ed 2d 751. *Hood River County v. Dabney*, supra, overruling *Evergreen Tbr. Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

A former similar statute was one of limitation and not of prescription. *National Sur. Corp. v. Smith*, (1941) 168 Or 265, 114 P2d 118, 123 P2d 203.

The two-year limitation does not apply to purchasers from the county, but only to persons claiming ownership as against the county or against persons holding title from the county. *Champ v. Stewart*, (1947) 181 Or 300, 181 P2d 780.

Where the foreclosure sale and tax deed are void because of jurisdictional defects in the foreclosure proceedings, the two-year limitation has no application regardless of whether the land is vacant or occupied. *Kaneaster v. Welch Jr.*, (1948) 183 Or 547, 194 P2d 410.

Failure to publish notice of expiration of redemption period is not jurisdictional to execution of deed to county and, therefore, the want thereof cannot be challenged by a collateral attack. *Otto & Harkson Co. v. Josephine County*, (1956) 207 Or 199, 295 P2d 875. *Distinguished in Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

The limitation in subsection (1) does not apply against a public body and in favor of title held by another public body or its successor in title. *Chizek v. Port of Newport*, (1969) 252 Or 570, 450 P2d 749.

Under a former similar statute, where ejectment was brought more than three years after foreclosure sale, the purchasers having had possession since the sale, and the tax deed being valid on its face, the action was barred. *National Sur. Corp. v. Smith*, (1941) 168 Or 265, 114 P2d 118, 123 P2d 203.

Under a former similar statute, where landowner was not given proper notice of intended foreclosure, sale of land was void for want of jurisdiction, and limitation did not apply. *Elliot v. Clement*, (1944) 175 Or 44, 149 P2d 985, 151 P2d 739.

The rule that the statute of limitations will not run as against a sale absolutely void for want of jurisdiction in the court to order it, had no application where the alleged defects, if present, were not of such a character as would have deprived the court of jurisdiction. *Lane County v. Bristow*, (1946) 179 Or 653, 173 P2d 954.

The statute of limitations was available as a defense to an attack on the validity of a tax foreclosure sale, although the county, which was the purchaser at the sale, had not been in possession for the full statutory period, since the statute was not prescriptive in character. *Id.*

An attack on the validity of a tax foreclosure sale was barred after the lapse of the statutory period, though asserted as a defense in answers in actions to quiet title brought by the county which was the purchaser at the sale. *Id.*

Defendants' failure to tender plaintiffs the amount of delinquent and other taxes they paid to the county consti-

tuted grounds for refusal of equity to remove plaintiffs' invalid tax deed as a cloud on defendants' title. *Keerins Bros. v. Mauney*, (1950) 189 Or 651, 219 P2d 753, 222 P2d 730.

FURTHER CITATIONS: *Lewis v. Blackburn*, 42 Or 114, 69 P 1024; *Darling v. Christensen*, (1941) 166 Or 17, 109 P2d 585; *Hilton v. Lincoln County*, (1946) 178 Or 616, 169 P2d 329; *Peer v. Claremont*, (1960) 188 F Supp 641; *Cascade Tree Farms, Inc. v. Clackamas County*, (1968) 250 Or 401, 442 P2d 606; *Western Tree Farms, Inc. v. Hood River County*, (1968) 252 Or 47, 448 P2d 518; *Western Tree Farms, Inc. v. Hood River County*, (1968) 252 Or 49, 448 P2d 519; *Hood River County v. Western Tree Farms, Inc.*, (1968) 252 Or 51, 448 P2d 519.

ATTY. GEN. OPINIONS: Defects existing prior to foreclosure, 1960-62, p 326.

LAW REVIEW CITATIONS: 28 OLR 184; 4 WLJ 548-553.

## 312.250

CASE CITATIONS: *Chizek v. Port of Newport*, (1969) 252 Or 570, 450 P2d 749.

## 312.270

## NOTES OF DECISIONS

This provision does not violate the home rule amendment, Ore. Const. Art. II, §2. *Portland v. Pac. Tel. & Tel. Co.*, (1933) 5 F Supp 79.

This section does not permit mortgagor or his successor to defeat lien of mortgage on his property by permitting county to acquire property under tax foreclosure proceedings and then resuming legal title thereto. *McKinnon v. Bradley*, (1946) 178 Or 45, 165 P2d 286.

FURTHER CITATIONS: *Central Ore. Irr. Dist. v. Deschutes County*, (1942) 168 Or 493, 124 P2d 518.

ATTY. GEN. OPINIONS: Irrigation and drainage districts within term "municipal corporation" as used in statute, and disposition of funds derived by county from sale of realty as provided by statute, 1934-36, p 754; state's claim for rentals on acquisition of property sold to county for delinquent taxes, 1936-38, p 446; cancellation of fire patrol assessments, 1938-40, p 727; cancellation of taxes and assessments of irrigation districts, 1938-40, p 755; power of county to reserve mineral rights when it sells land acquired at foreclosure sale, 1948-50, p 309; furnishing water by an irrigation district as an "assessment for local improvement," 1952-54, p 4.

## 312.280

## NOTES OF DECISIONS

Irrigation districts claiming a local improvement lien must file a description of the property on which the lien is claimed before the county tax sale, even though the district assessment roll is filed with the assessor and spread upon the tax rolls as a lien to be collected by the sheriff with the taxes. *Central Ore. Irr. Dist. v. Deschutes County*, (1942) 168 Or 493, 124 P2d 518.

Before a municipality is entitled to registered mail notice that the county has received an offer of purchase, it must have filed with the county clerk a description of the property involved as provided in ORS 275.130 before the sale date in the notice published by the sheriff. *Id.*

The purchaser acquired title free of local improvement assessments where the municipality failed to file a description of the property and was not entitled to notice. *Id.*

**FURTHER CITATIONS:** Albany v. Arnold, (1954) 202 Or 498, 276 P2d 389.

**ATTY. GEN. OPINIONS:** Participation by irrigation district in distribution of proceeds derived from sale of property acquired by county by tax deed, 1924-26, p 389; notice necessary in case of sale and resale of real property acquired by counties for delinquent taxes, 1932-34, p 372; payment by municipality of penalties and interest on purchase of property bid in by county at a tax sale, 1934-36, p 649; where county has sold property pursuant hereto, thereafter selling it to a city, 1940-42, p 304; right of irrigation district to exclusively purchase property, acquired by the county for delinquent taxes, where district has not constructed any local improvements on it, 1950-52, p 421.

**312.290**

**CASE CITATIONS:** Central Ore. Irr. Dist. v. Deschutes County, (1942) 168 Or 493, 124 P2d 518.

**312.300**

**CASE CITATIONS:** Central Ore. Irr. Dist. v. Deschutes County, (1942) 168 Or 493, 124 P2d 518.

**ATTY. GEN. OPINIONS:** Result where reservation of mineral rights is contained in published notice of sale but omitted from deed, 1952-54, p 126.

**312.310**

**ATTY. GEN. OPINIONS:** Extent of county court's power to sell timber at a private sale, and determining period of "in process of foreclosure," 1948-50, p 29.

**312.360**

**NOTES OF DECISIONS**

Under a former similar statute, an entirely void sale was not validated. Ferguson v. Kaboth, (1903) 43 Or 414, 73 P 200, 74 P 466.

Under a former similar statute, deeds given by a sheriff

at the sale of lands bid in by counties at a delinquent tax sale were not within its application. Mount v. McAulay, (1906) 47 Or 444, 83 P 529.

Under a former similar statute, a sale on an assessment incorrectly describing the land to one not an owner, and who did not appear to have been the owner of record of the parcel to which the description applied, was not validated. Martin v. White, (1909) 53 Or 319, 100 P 290.

One intervening in a suit to quiet title could not question the regularity of the sale to the county of land for taxes in the absence of a tender of the taxes, where it was unquestioned that the property was subject to such unpaid taxes. Hibernia Commercial & Sav. Bank v. McArthur, (1927) 121 Or 413, 255 P 466.

Only irregularities, omissions or defects not going to or affecting the authority of the sheriff to sell come within the application of this section; it does not apply where there is an entire lack of authority in the warrant and order furnished the sheriff to sell. Peterson v. Graham, (1929) 131 Or 290, 279 P 553, 282 P 1084.

Where the tax was unlawfully increased by the addition of unwarranted costs, this statute is not applicable. Watson v. Jantzer, (1935) 151 Or 1, 47 P2d 239.

Plaintiff was not misled by fact that notice of publication stated that period of redemption expired on June 25, whereas statutory period of one year ended on June 23, and deed from sheriff to county was valid. Mallory v. Gruberman, (1949) 185 Or 82, 202 P2d 281.

Failure to publish notice of expiration of redemption period is not jurisdictional to execution of deed to county and, therefore, the want thereof cannot be challenged by a collateral attack. Otto & Harkson Co. v. Josephine County, (1956) 207 Or 199, 295 P2d 875. Distinguished in Kern County Land Co. v. Lake County, (1962) 232 Or 405, 375 P2d 817.

**FURTHER CITATIONS:** Ayers v. Lund, (1907) 49 Or 303, 89 P 806, 124 Am St Rep 1046; Knapp v. Josephine County, (1951) 192 Or 327, 235 P2d 564.

**ATTY. GEN. OPINIONS:** Validity of tax deed to foreclosed property sold privately without advertisement of sale, 1950-52, p 227.