



1977 Iowa Op. Atty. Gen. 310, 1977 WL 19005 (Iowa A.G.)

Page 1

1977 Iowa Op. Atty. Gen. 310, 1977 WL 19005 (Iowa A.G.)

Office of the Attorney General
State of Iowa

Opinion No. 77-11-14

November 30, 1977

COUNTIES AND COUNTY OFFICERS: County clerk; Satisfaction of judgments. §§ 624.20 and 624.37, Code of Iowa, 1977. A judgment is not satisfied until acknowledged by the claimant on the record of such judgment at which time the clerk shall at once enter a memorandum thereof in the judgment docket. (Haesemeyer to Burroughs, 11-30-77)

Honorable Cliff Burroughs
State Senator

Pursuant to your letter and a telephone conversation with Walter Wilhelm, Clerk of District Court, Butler County, you have requested an opinion from this office as to the procedure to be followed and the duties which are incumbent on the clerk under §§ 624.20 and 624.37, Code of Iowa, 1977. Such sections provide:

§ 624.20

'Satisfaction of judgment. Where a judgment is set aside or satisfied by executive or otherwise, the clerk shall at once enter a memorandum thereof on the column left for that purpose in the judgment docket.'

§ 624.37

'Satisfaction of judgment-penalty. When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for him, must acknowledge satisfaction thereof upon the record of such judgment, or by the execution of an instrument referring to it, duly acknowledged and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to do so for thirty days after having been requested in writing shall subject the delinquent party to a penalty of fifty dollars, to be recovered in an action therefor by the party aggrieved.'

Specifically, your question refers to the situation in which a third party, intent on purchasing a particular parcel of property, pays a judgment so that the lien may be removed and the property sold. What procedure should the clerk take with regard to the release of the lien under the code sections above. Is the satisfaction of the judgment complete upon payment to the clerk or upon receipt by the claimant (party entitled to the proceeds of the judgment)?

For example, a judgment is paid to the clerk who now becomes liable for those funds. Sections 682.38 and 606.3, see also *Morgan v. Long*, 29 Iowa 434 (1870); *In re Mairn's Estate*, 227 N.W. 586 (Iowa 1929). What if he at once releases the lien, mails a check in the amount of the judgment to the claimant's last known address, the money is physically lost, the claimant has no knowledge of the payment, release or loss and subsequently

comes to execute on the judgment, the property has been sold, there is nothing on which to execute, who bears the loss? Is the clerk liable?

This situation or one similar to it may occur if the clerk follows § 624.10 without regard to § 624.37, i.e., by releasing the lien without first satisfying the claimant. The clerk then becomes liable for the lost monies. *Mahaska County v. Searle*, 44 Iowa 492 (1876).

Under Iowa law statutory provisions are to be read together to give effect to all. § 4.4 This is the case with §§ 624.20 and 624.37. The procedure followed by the clerk in complying with § 624.20 should include full compliance with the provisions of 624.37 when a lien is involved. This means that the satisfaction of the judgment is not complete until the claimant *acknowledges* satisfaction of the judgment (under § 624.37), at which time the clerk shall at once enter memorandum and release the lien (under § 624.20). This procedure, when followed, alleviates the problem of liens being released and property being sold before claimants are in possession of monies therefrom. This procedure, by assuring receipt of the monies by the claimant, also immunizes the clerk from liability.

*2 Richard C. Turner
Attorney General

1977 Iowa Op. Atty. Gen. 310, 1977 WL 19005 (Iowa A.G.)
END OF DOCUMENT