

T. G. CUTLIP

LAWYER

TECUMSEH, OKLA.

October 19" 1926.

Mr. John C. Warnock,
Okmulgee, Okla.

Sir:

Your letter of October 15", 1926, addressed to C. G. Cutlip of Wewoka, has been transmitted to me by Mr. Cutlip with the laconic remark: "This must be your work." I accept the responsibility of inaugurating this procedure in this County. I have had so much annoyance from parties who claim they are passing upon Abstract for Oil Companies, and who display such a shallow knowledge of the work in which they seem to be engaged, that I loose my good nature when inquiries of this kind come in.

It does seem to me, that any Lawyer who knows, or is presumed to know, that there are two kinds of sales of Real Estate emanating from Courts of record. One, a Judicial Sale, where the court is the vendor, and the other an execution sale; wherein the Sheriff sells the property levied upon to obtain a sum of money to satisfy the Execution, etc., and is sold to the highest bidder for cash. In this character of Sale, the Sheriff is the vendor.

When an order of sale of specific Real Estate is ordered sold by the court, which sale is conducted by some one appointed by the court and subject to its control-and a report of sale and the approval by a Court is clearly a Judicial Sale. Execution sales are not Judicial. These sales are based upon a judgment for so much money, and no specific property is directed to be sold-the object is to obtain a fund with which to satisfy the judgment.

The Characteristic difference is that an Execution Sale is predicated upon a general judgment for so much money.

A Judicial Sale is upon an order to sell Specific property-the same upon which the lien was impressed.

The Execution Sale is conducted by an officer of the law, and in pursance to the statutes- the judicial sale is made by an agent or Commissioner of the Court. The Sheriff is the vendor, or seller in the one, and the Court in the other.

This is theory I advanced and acted sixteen years ago and upon reason and the authority of Freeman on void judicial sale Section One of Page 2, 3rd. Edition and Decisions therein cited.

Since then, the Supreme Court of this State, in at least two cases has approved the position herein contended for and act

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upon.

Okla. City Pac. & Pro. Co. Vs Pearson 94 Okla. 124
Pull down your report and read it. I am sending a copy
of this letter to Mr. Cutlip at Wewoka. If you will
look up the cases, you will not hesitate to pass the
Abstract on that point.

Yours Truly,