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## Personal Property

Marshall I. Nurenberg

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in *Garrison v. Place*,<sup>2</sup> a court of appeals held that participation in the profits of a business which involved transactions prior to 1949, although strong evidence of partnership, is not conclusive where the persons participating in the profits do not take them as principals in a joint activity in which each has authority to bind the other. In concluding that there was no evidence to go to the jury on the issue of mutual agency, the court observed that, with the exception of partnership by estoppel, proof of the essential elements of a partnership or a joint adventure is necessary for the submission to the jury of the issue of the existence of either relationship.

MAURICE S. CULP

## PERSONAL PROPERTY

In *Royal Industrial Bank of Louisville v. Klein*,<sup>1</sup> the court of appeals followed the holding of *Kelley Kar Co. v. Finkler*,<sup>2</sup> and affirmed judgment for defendant, an innocent purchaser for value, in an attempted replevin proceeding. The plaintiff was the holder of a prior recorded chattel mortgage on the automobile whose lien was not indicated on the defendant's Ohio certificate of title. The court noted that the strict requirements of the statute<sup>3</sup> are not avoided if the certificate of title contains some misdescriptions as long as no other automobile could possibly fit the description and the chattel in question was clearly identified.

The effect of the statute<sup>4</sup> is to estop the true owner of, or one having a valid interest in, an automobile from recovering a judgment against an innocent converter unless the prior interest is noted on the certificate of title.

The Municipal Court of Dayton<sup>5</sup> had occasion to determine whether the certificate of title statute abrogates the common law artisan's lien for repairs to automobiles.<sup>6</sup> The court wisely decided that the statute does not purport to affect the right of possession between the immediate parties to the transaction as distinguished from an innocent third party.<sup>7</sup>

<sup>1</sup> 92 Ohio App. 309, 110 N.E.2d 40 (1952).

<sup>2</sup> 155 Ohio St. 541, 99 N.E.2d 665 (1951).

<sup>3</sup> OHIO REV. CODE § 4505.04 (OHIO GEN. CODE § 6290-4) " No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motor vehicle sold or disposed of, or mortgaged or encumbered, unless evidenced: (A) By a certificate of title. "

<sup>4</sup> OHIO REV. CODE § 4505.04 (OHIO GEN. CODE § 6290-4)

<sup>5</sup> Justice v. Bussard, 114 N.E.2d 305 (Dayton Mun. Ct. 1953)

<sup>6</sup> Ohio does not have a statutory artisan's lien but recognizes this lien as part of its common law. 25 OHIO JUR. 353.

<sup>7</sup> A literal reading of Ohio General Code Section 6290-4 (Ohio Revised Code Section 4505.04) indicates that an attempt by the artisan to assert a claim or interest in