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# Partnership

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quently, presentment for payment must be made, and notice of dishonor given, for each installment as it becomes due. Otherwise, the indorsers are discharged as to that installment.

FLETCHER R. ANDREWS

## PARTNERSHIP

An interesting procedural problem was presented by the application of the strict Ohio vehicle certificate statute<sup>1</sup> to an automobile owned by a partnership. M. B. Guran and other members of his family operated the Guran Coal & Contracting Company as a partnership. The firm purchased a truck and the certificate was issued to "M. B. Guran Coal and Contracting." The partners sued for negligent damage to the truck but were denied the right to prove title to the truck by using the certificate. As a result of this failure to establish ownership in the firm, the Gurans lost their case in the trial court. This judgment was reversed by the court of appeals.<sup>2</sup> The court pointed out that under the recently adopted Uniform Partnership Act the firm could sue or be sued in its own name and could hold legal title to a motor vehicle. Seen in this light, it was apparent that the certificate of title should have been in the name of the partnership and the omission of the word "Company" from the certificate was a clerical error. The court also stated as dictum that both the caption and the body of a partnership pleading should specify that the partnership as a legal entity is the party to the action.

*Tonti v. Tonti*<sup>3</sup> involved the rights of a retiring partner against the firm and the enforcement of these rights. The plaintiff alleged that he withdrew from the partnership under an agreement whereby he could retire at anytime and receive his interest in the business, and that he was unable to find out what his interest was. The trial court directed an accounting and appointed a receiver to take over the assets of the firm, although some of the partners were not served with a summons in the action. The court of appeals affirmed, pointing out that while a receivership is not necessary in all accounting cases, it is the only feasible device where the partnership affairs are extensive and complex. Failure to serve all of the partners did not invalidate the appointment of the receiver, as the receiver took no title but merely custody of the firm's assets. Thus the appointment was not a final adjudication of the partners' liabilities, but a provisional order which

<sup>1</sup> OHIO REV. CODE § 4505.04.

<sup>2</sup> Guran v. Whims, 121 N.E.2d 315 (Ohio App. 1951).

<sup>3</sup> 118 N.E.2d 200 (Ohio App. 1951). See CIVIL PROCEDURE, *supra*.