

Volume 7 | Issue 3

1956

Personal Property

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Recommended Citation

Robert N. Cook, *Personal Property*, 7 W. Res. L. Rev. 306 (1956)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol7/iss3/26>

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enough to create a valid partnership if the regulatory statutes are not followed in full. The point is emphasized by *Scrutchings v. Niner*⁴ where the parties entered into a partnership contract for the operation of a restaurant and bar. The plaintiff partner was denied the right to recover under the contract for his services, on the ground that he did not have a liquor license. Presumably, he would also be barred from recovery by means of an accounting or in quasi-contract.⁵

HUGH A. ROSS

PERSONAL PROPERTY

Non-resident Owner v. Purchaser of Stolen Automobile

Although there is a trend in favor of protecting the bona fide purchaser of real or personal property from claims of others based on title or lien, an exception to this trend is the bona fide purchaser whose title to tangible property other than money is derived from a thief. Therefore, the decision of the court of appeals in *Ohio Casualty Ins. Co. v. Guterman*¹ in favor of the Illinois owner of a stolen automobile against the Ohio bona fide purchaser from a person who had an Ohio certificate of title to this automobile is not surprising. A decision in favor of the bona fide purchaser might have defeated the purpose of the Ohio motor vehicle certificate of title law, that is, to eliminate the market for stolen motor vehicles.

Holder of Dry Legal Title to Automobile v. Tortfeasor

Another case involving the Ohio motor vehicle certificate of title law is *Cramer v. Fischer Bakery Co.*² In this case the person to whom the certificate of title for an automobile had been issued sued a third person whose truck damaged the automobile. The real owner of the automobile was a minor who had taken title in the name of a friend, the plaintiff. The plaintiff as the insured received payment from the insurance company for the amount of the damage less fifty dollars. The minor paid this fifty dollars, all amounts due to the vendor on the sale price and the premium for insurance. When the plaintiff stated on cross-examination that he had

¹ 163 Ohio St. 498, 127 N.E.2d 209 (1955).

² 97 Ohio App. 329, 125 N.E.2d 885 (1953).

³ OHIO REV. CODE § 1775.06.

⁴ 69 Ohio L. Abs. 233, 124 N.E.2d 754 (1952).

⁵ *Nahas v. George*, 156 Ohio St. 52, 99 N.E.2d 898 (1951); *Williams v. Williams*, 95 Ohio App. 533, 121 N.E.2d 98 (1953).

not been damaged, the common pleas court held that the plaintiff could recover nothing. The court of appeals realized that the minor, who was the real party in interest, could not sue because title to the automobile was not in his name. Therefore, it properly allowed recovery in the name of the plaintiff who was "the holder of the dry legal title," and who, as trustee, but not personally, had been damaged.

Notarization of Blank Application for Automobile Title

A third case involving a certificate of title to an automobile calls attention to the tendency by large business concerns to treat Notary Public Commissions as commercial conveniences and not as legal safeguards. The common pleas court in *State v. King*³ refused to order the defendant clerk of courts to issue a certificate of title to an automobile because the application had been executed by the notary public before it was signed by the applicant.

The modern trend is to abolish the requirement that documents be sworn to before a notary public.⁴ Therefore, lawyers should consider whether the notarization of applications for certificates of title serves any useful purpose. The substitute for notarization is a statute which makes fraud or intentional misrepresentation with respect to certain documents a crime.

Partition of Tangible Personal Property

If two or more persons own undivided interests as tenants in common of tangible personal property which can not be divided easily, one of the tenants in common may have the property divided by an action for partition in the common pleas court. The partition action for the division of personal property is not statutory.

In *Gornall v. Gornall*⁵ the common pleas court overruled a demurrer to an action for the partition of the inventory and miscellaneous equipment of a grocery store.

ROBERT N. COOK

¹97 Ohio App. 237, 125 N.E.2d 350 (1954).

²98 Ohio App. 25, 128 N.E.2d 161 (1953).

³129 N.E.2d 103 (Ohio Com. Pl. 1955).

⁴Applications for motor vehicle licenses do not have to be notarized. OHIO REV. CODE § 4503.10 (1955 Supplement).

⁵129 N.E.2d 876 (Ohio Com. Pl. 1954).