

Opinion No. 52

Motor Vehicles—Conditional Sales Contract, Duration of

Held: The security afforded the vendor under the terms of the conditional sales contract continues until the terms of the contract are complied with by the vendee, and upon the vendor receiving final payment on such conditional sales contract the vendor must file in the office of the Registrar of Motor Vehicles a satisfaction thereof within 15 days after receiving such final payment. If the vendor fails to file satisfaction within 15 days after final payment, he shall pay one dollar (\$1.00) to the office of the Registrar of Motor Vehicles for each and every day thereafter that he fails to file such satisfaction.

August 4, 1947

Mr. John E. Henry
Registrar Motor Vehicles
Deer Lodge, Montana

Attention:
Mr. M. P. Trenne, Deputy
Registrar

Dear Mr. Henry:

You have asked this office the following question:

"What is the duration of time a conditional sales contract on a motor vehicle, properly filed in the office of the Registrar of Motor Vehicles, continues to be a valid lien on the Motor vehicle?"

It should be noted that under a conditional sales contract, as recognized by our statutes, the vendor has no lien on the motor vehicle to which holds the title.

A conditional sales contract is one where it is agreed that, until the price is paid the title remains in the vendor. Possession of the motor vehicle is delivered to the buyer.

The retaining of title to the property by the vendor until the purchase

price is paid, or conditions of the contract are fulfilled by the buyer, is the security the vendor holds for the payments which are due under the contract. Our Supreme Court has stated it thus:

"'Conditional Sale,' is one in which possession is delivered to buyer, but seller retains title until some condition is performed, usually payment of purchase price." First National Bank v. Marlowe, 71 Mont. 461, 230 Pac. 374, 376.

A "conditional sales contract" is the assertion of the legal title as against the presumption of possession, while a "chattel mortgage" evidences a lien against the legal title.

You will note the provisions of Section 3, Chapter 63, Laws of 1945, and especially subdivisions (b), (c) and (d), which provide as follows:

"(b) A chattel mortgage on a motor vehicle is hereby expressly excepted from the provisions of sections 8278 and 8280 inclusive and a conditional sales contract on a motor vehicle is hereby excepted from the provisions of sections 7594 and 7596 inclusive in so far only as they relate to the place of filing of chattel mortgages, affidavits of renewal conditional sales contracts or releases.

"(c) From and after the filing of any mortgage, conditional sales contract, lease, or other lien, or copy thereof on any motor vehicle, as herein provided, then and in that event such mortgage, conditional sales contract, lease or other lien shall be constructive notice of the said mortgage, conditional sales contract, lease or other lien and its contents to subsequent purchasers and encumbrancers.

"(d) Upon default under a chattel mortgage covering a motor vehicle the mortgagee may foreclose his mortgage as in the case of other personal property, and upon default under a conditional sales contract covering a motor vehicle the vendor shall have the remedies prescribed by section 7597 upon delivery to the sheriff of the original instrument or a copy certified by the registrar of

motor vehicles, and in case of attachment of motor vehicles all the provisions of section 8283 shall be applicable except deposits must be made with the registrar of motor vehicles instead of the county treasurer."

The said section 3, under subdivision (e) then provides:

"(e) In the event any conditional sales vendor or assignee or chattle mortgagee or assignee fails to file a satisfaction of a chattel mortgage or assignee fails to file a satisfaction of a chattel mortgage, assignment or conditional sales contract within fifteen days after receiving final payment on such mortgage assignment, or conditional sales contract he shall be required to pay the registrar of motor vehicles the sum of one dollar (\$1.00) for each and every day thereafter that he fails to file such satisfaction. All moneys paid to the registrar of motor vehicles under this section shall revert to the automobile theft fund."

It is, therefore, my opinion the security afforded the vendor under the terms of the conditional sales contract continues until the terms of the contract are complied with by the vendee and upon the vendor receiving final payment on such conditional sales contract the vendor must file in your office a satisfaction thereof within 15 days after receiving such final payment. If the vendor fails to file satisfaction within 15 days after final payment, he shall pay one dollar (\$1.00) to your office for each and every day thereafter that he fails to file such satisfaction.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General