

Opinion No. 225.

Motor Vehicles—Registrar of Motor Vehicles—Certificates of Ownership—Conditional Sales Contracts Covering Accessories, Effect of.

HELD: Conditional sales contracts covering tires and other accessories filed with the Registrar of Motor Vehicles are not valid against creditors or subsequent purchasers or encumbrances unless the owner of such contract is the record legal owner of the motor vehicle.

April 12, 1940.

Hon. Theo. R. Bergstrom
Registrar of Motor Vehicles
Deer Lodge, Montana
Attention of Mr. T. F. Walsh

Dear Sir:

You request our opinion upon the following questions:

"1. Does a conditional sales contract covering the sale of tires and filed with this office hold as against the transfer of the title to the motor vehicle?"

"2. Had the conditional sales contract been such as to encumber the car, would the situation be different?"

Chapter 152, Vol. 1, R. C. M., 1935, has reference exclusively to motor vehicles as distinguished from tires and accessories.

Since the passage of Chapter 159, Laws of 1933, purchasers, mortgagees and creditors must depend upon the records of the registrar of motor vehicles as to the title rather than upon

the records of the clerks and recorders of the respective counties. The title is evidenced, since the passage of this Act, by ownership certificates (Section 1758) and registration certificates (Section 1759), the ownership certificate passing to the person holding legal title, such as the vendor in the case of a conditional sales contract, or the mortgagee under a chattel mortgage (Section 1758, R. C. M., 1935, as amended by Section 5, Chapter 72, Laws of 1937).

"Motor vehicle" is defined (Section 1763.1, subdivision (a) as including all vehicles which are self-propelled and Section 1755.3 provides:

"The word 'motor vehicle' as used in this act or any of the sections of this act shall be deemed to include trailers, semi-trailers, automobiles, auto trucks, motorcycles, cycle motors, and all other vehicles propelled by their own power, used upon the public highways of the state, excepting steam or gas tractors."

Nowhere in the entire chapter do we find accessories of any kind regarded as vehicles.

It is my opinion that a conditional sales contract of tires, even though filed in your office, the lien not being shown on the registration and title certificates, will not hold against the transfer of the title of the motor vehicle.

As to the second question, in such a case as you mention it would be necessary on the part of the one seeking protection for his claim either to take up the original ownership certificates by transfer thereof, as per Section 1758.2, R. C. M., 1935, as amended by Section 6, Chapter 72, Laws of 1937, and have a new certificate of ownership issued showing the lien, or to proceed by way of chattel mortgage on the motor vehicle carrying the accessories covered, as provided for by Section 1758.3, R. C. M., 1935, as amended by Section 7, Chapter 72, Laws of 1937, subdivision (a) of which reads:

"No chattel mortgage or conditional sales contract on a motor vehicle shall be valid as against creditors or subsequent purchasers or encumbrances until the mortgagee or conditional sales vendor therein named is registered as the legal owner thereof as herein provided."

You will note that the entire section refers only to motor vehicles and not accessories. Subdivision (g) of Section 7, Chapter 72, Laws of 1937, provides that the registrar shall within twenty-four hours mail to the legal owner, conditional vendor, mortgagee or assignee of any thereof, and also to the registrant and assignee, notices showing the lien claimant, etc., which is practically the procedure in the case of a transfer of title of a motor vehicle.