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Personal Property

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PERSONAL PROPERTY

Certificate of Motor Vehicle Title Law

At least two decisions announced during the period covered by this Survey related to rights arising under the Ohio Certificate of Motor Vehicle Title Law.¹ In *Gibson v. Bolner*² the Supreme Court allowed the manufacturer of a commercial trailer to assert successfully the priority of its purchase money chattel mortgage over the claim of a subsequent mortgagee, even though the manufacturer had failed to procure the issuance to its mortgagor of an Ohio certificate of title, which certificate would have noted the lien.³ The mortgagor was thus enabled to execute to a third person, the plaintiff, a chattel mortgage on the trailer which, when recorded in Ohio, became ostensibly a first and best lien. The court found that under the facts presented the first mortgagee was not a "dealer" within the meaning of Ohio Revised Code section 4505.06, and was therefore not obliged to procure issuance of an Ohio certificate of motor vehicle title in order to protect its lien.

In considering the same chapter of the Ohio Revised Code, a court of appeals found, upon the facts before it, that since the prospective mortgagee was in possession of all of the documents of title, but the amount of the note and mortgage, although signed in blank by the purchaser, had not been filled in by the prospective mortgagee at the time the vehicle was damaged, the seller of an automobile was still the owner of the legal title and must bear the loss.⁴

Transfer of Property by Decedent

At least three decisions involved the alleged transfer of personal property during life by a decedent to his survivors. In *Renee v. Sanders*,⁵ a majority of the court of appeals found that under the circumstances an action for declaratory relief would lie in the probate court to determine whether the plaintiff had received from the decedent a gift causa mortis of the contents of a locked box, which remained at all times after the alleged gift in the decedent's room, and also of a safety deposit box. It found the evidence insufficient to prove such a gift had been made, in

¹ OHIO REV. CODE c. 4505.

² 165 Ohio St. 357, 135 N.E.2d 353 (1956).

³ OHIO REV. CODE §§ 4505.04 and 4505.13.

⁴ *Motorists Mut. Ins. Co. v. Auto Owners Mut. Ins. Co.*, 137 N.E.2d 154 (Ohio App. 1956).

⁵ 102 Ohio App. 21, 131 N.E.2d 846 (1956)