JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2005-09-13-05
ID:	SJ-05-020-K
DATE:	SEPTEMBER 13, 2005
DISPOSITION:	SUSTAINED
TAX TYPE:	TITLE REVOCATION
APPEAL:	NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A request for revocation of Title No. 99999999999F, a transfer title, issued to Respondent on a 1989 Dodge Daytona, Vehicle Identification No. VINXYZ123, was filed by Complainant with the Division on June 17, 2005. The Division forwarded its file in this cause to the Office of the Administrative Law Judges (ALJ's Office) on June 22, 2005. The case was docketed as Case No. SJ-05-020-K and assigned to ALJ, Administrative Law Judge.[1]

A *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* was served on Respondent in accordance with 47 O.S. 2001, § 1106. The Show Cause Hearing was held on July 18, 2005. After being first duly sworn, COMPLAINANT'S REP and RESPONDENT'S REP gave statements on behalf of Complainant and Respondent, respectively. SUPERVISOR, Supervisor of Title Corrections for the Division, testified regarding the records of the Division. Complainant's Exhibits A, B and C were identified, offered and admitted into evidence. Division's Exhibits A, B and C were also identified, offered and admitted into evidence. The record was held open for purposes of the Division submitting the "D" title documentation for review. By *Memorandum* filed July 20, 2005, the Division submitted the "D" and "E" title documentation to the Court, whereupon the record in this cause was closed and the matter was submitted for decision.

FINDINGS OF FACT

Upon review of the file and records, including the record of the hearing and the documents received into evidence, the undersigned finds:

1. Complainant applied for and received Title No. 99999999999D, a transfer title, to the vehicle in question on January 27, 2005, upon presentment of a Bill of Sale from SELLER, the record owner of the vehicle dated December 28, 2004 and an Affidavit for Transfer When Assigned Title is Lost executed by COMPLAINANTS' REP on behalf Complainant.

2. Complainant sold the vehicle in question to BUYER on February 11, 2005 upon an installment sales contract and on February 17, 2005, filed a Lien Entry Form on the vehicle.

3. Complainant applied for and received Title No. 99999999999E, a repossession title, to the vehicle in question on March 17, 2005, upon presentment of an Oklahoma Tax Commission

[1] Rule 710:1-5-22(b) of the Oklahoma Administrative Code ("*OAC*").

Repossession Affidavit, a copy of the Security Agreement between Complainant and BUYER and Copy 4 of the Lien Entry Form.

4. Complainant sold the vehicle in question to RESPONDENT on April 4, 2005 upon an installment sales contract and on April 8, 2005, filed a Lien Entry Form on the vehicle.

5. On May 5, 2005, Respondent applied for and received Title No. 99999999999F, a transfer title not subject to any liens, to the vehicle in question upon presentment of the assigned "E" title which reported on the face thereof that the vehicle was subject to Complainant's lien entered April 8, 2005 and a "Duplicate" Copy 4: Lien Release to the Lien Entry Form, purportedly showing Complainant's lien on the vehicle was released effective May 1, 2005.

6. COMPLAINANT'S REP testified that he sold the vehicle in question to Respondent on April 4, 2005, that although Respondent remitted $300.00 as a down payment toward the purchase of the vehicle, she has failed to make any further payments toward the vehicle and is currently delinquent under the installment agreement.

7. RESPONDENT'S REP testified that the vehicle should never have been titled in the name of Complainant, that ABC AUTO DEALER sold the vehicle to him and his grandfather and that COMPLAINANT'S REP fraudulently obtained title to the vehicle.

8. The record reflects that RESPONDENT'S REP was a salesman for Complainant and that RESPONDENT'S REP acted as the salesperson on the sale of the vehicle to Respondent.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law:

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 47 O.S. 2001, § 1106 and 68 O.S. 2001, § 212.

2. The Oklahoma Vehicle and Registration Act, 47 O.S. 1991, § 1101 ***et seq.***, was not enacted for the purpose of determining the ownership of a licensed vehicle, and the issuance or revocation of a certificate of title under the Act by the Commission is not a positive determination of ownership of title to the vehicle. ***Lepley v. State of Oklahoma***, 69 Okla.Crim. 379, 103 P.2d 568, 572, 146 A.L.R. 1323 (1940).

3. The Tax Commission is merely a custodian of the records required to file and index certificates of title so that "at all times it is possible to trace title to the vehicle designated." 47 O.S. 2001, § 1107.

4. The Tax Commission upon determination that an Applicant is not entitled to register and title a vehicle may at any time refuse to issue or revoke the registration and certificate of title. 47 O.S. 2001, § 1106.

5. Based on the evidence presented, the application for revocation of Certificate of Title No. 99999999999F should be and the same is hereby granted.

DISPOSITION

Therefore, it is ORDERED that the application for revocation of Certificate of Title No. 99999999999F issued to Respondent, RESPONDENT, on the 1989 Dodge, Vehicle Identification No. VINXYZ123, be sustained.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.