

JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2006-08-01-03
ID: SJ-06-001-K
DATE: AUGUST 1, 2006
DISPOSITION: SUSTAINED
TAX TYPE: TITLE REVOCATION
APPEAL: NONE TAKEN

RECOMMENDATION OF SUSTENTATION OF THE APPLICATION
FOR REVOCATION OF THE CERTIFICATE OF TITLE

Complainants, OWNERS; and Respondent, FINANCE COMPANY, appear pro se. The Motor Vehicle Division of the Tax Commission (hereinafter "Division") is represented by the General Counsel's Office of the Tax Commission, OTC ATTORNEY, Assistant General Counsel.

STATEMENT OF THE CASE

A request for revocation of Title No. 123E issued to Respondent on a 1997 Fleetwood Mobile Home, Vehicle Identification No. 123ABC was filed with the Division by the Complainants on or about February 10, 2006. The request was forwarded to the Office of the Administrative Law Judges for further proceedings consistent with the Oklahoma Vehicle License and Registration Act¹, the Uniform Tax Procedure Code,² and the Rules of Practice and Procedure Before the Oklahoma Tax Commission.³

A *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* was served on the parties in accordance with 47 O.S. 2001, § 1106. The show cause hearing was held on April 12, 2006. Respondent neither appeared at the hearing nor responded to the notice. Complainant, OWNER, appeared and gave a brief statement in support of the complaint. The Division called one (1) witness, SUPERVISOR, Supervisor of the Title 42 Section of the Division, who testified regarding the records of the Division. Exhibits A-1 through A-9, B-1 through B-6 and C-1 through C-9 were identified, offered, and admitted into evidence. The Complaint was marked ALJ's Exhibit 1 and was received into evidence.

FINDINGS OF FACT

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

1. Respondent applied for and received Title No. 123C repossession title, to the vehicle in question on February 1, 2002, upon presentment of a Lien Entry Form – Motor Vehicle – Oklahoma, Copy 4: Lien Release – From Secured Party to Debtor; Oklahoma Tax Commission Repossession Affidavit; the promissory Note; a Truth in Lending Disclosure Statement; and OTC

¹ 47 O.S. 2001, § 1102 et seq.

² 68 O.S. 2001, § 201 et seq.

³ Rules 710:1-5-20 through 710:1-5-47 of the Oklahoma Administrative Code ("OAC").

form 936 – Oklahoma Manufactured Home Certificate, Receipt of Ad Valorem Taxes paid. Exhibits A-1 through A-9.

2. Exhibits A-1 through A-9 reflect that Respondent sold the mobile home to BUYER on September 9, 2000 and took a security interest in the vehicle, that BUYER defaulted in payments on the conditional sales contract and Respondent by legal proceedings obtained repossession of the mobile home on November 19, 2001, and that Respondent released the lien of the debtor and regained title to the mobile home on February 1, 2002.

3. Complainants applied for and received Title No. 123D, a transfer title, to the vehicle in question on February 16, 2002, upon presentment of the assigned C title, a Bill of Sale and OTC form 936. Exhibits B-1 through B-6.

4. Complainants purchased the mobile home outright and no lien was recorded on Complainants' title. Exhibits B-5 and B-1.

5. On April 1, 2002, Respondent applied for and received Title No. 123E, a repossession title, to the vehicle in question, upon presentment of a Lien Entry Form – Motor Vehicle – Oklahoma, Copy 4: Lien Release – From Secured Party to Debtor; Oklahoma Tax Commission Repossession Affidavit; the promissory Note; a Continuing Power of Attorney; and OTC form 936 – Oklahoma Manufactured Home Certificate, Receipt of Ad Valorem Taxes paid. Exhibits C-1 through C-9.

6. Exhibits C-1 through C-9 reflect that notwithstanding title to the vehicle was in Complainants' names, Tag Agent 1234 allowed Respondent to utilize the information between itself and BUYER to obtain the E title.

7. In the opinion of the Division, an error was made in the issuance of the E title to Respondent in that neither Respondent nor BUYER could claim a legal interest in the vehicle in question subsequent to the outright sale of the vehicle to Complainants.

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. 2001, § 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 Ok. Cr. 379, 103 P.2d 568 (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. Here, the Division's records clearly show a mistake was made in issuing the E title to Respondent.

DISPOSITION

Therefore, it is ORDERED that Certificate of Title No. 123E issued to Respondent, FINANCE COMPANY on the 1997 Fleetwood Mobile Home, Vehicle Identification No. 123ABC, be revoked.

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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.