JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2006-11-21-05 (Non-Precedential)
ID: SJ-06-006-K
DATE: NOVEMBER 21, 2006
DISPOSITION: REVOKED
TAX TYPE: TITLE REVOCATION
APPEAL: NONE TAKEN

ORDER OF SUSTENTATION OF THE REQUEST FOR REVOCATION OF CERTIFICATE OF TITLE

STATEMENT OF THE CASE

A request for revocation of Title No.123F issued to Respondent on a 1998 Oakwood mobile home, Vehicle Identification No. ABC123, was filed by Complainant on July 25, 2006. On July 31, 2006, the Division's file was referred to the Office of the Administrative Law Judges (ALJ's Office) for further proceedings pursuant to the Oklahoma Vehicle License and Registration Act,[1] the Uniform Tax Procedure Code[2] and the Rules of Practice and Procedure before the Oklahoma Tax Commission[3]. The request was docketed as Case No. SJ-06-006-K and assigned to ALJ, Administrative Law Judge.[4]

A hearing was scheduled for August 23, 2006 by *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* issued August 1, 2006. Upon *Order Granting Motion for Continuance* the hearing was stricken and rescheduled for September 26, 2006. Both the Notice and Order were served on Respondent and Complainant in accordance with 47 O.S. 2001, § 1106.

The hearing was held as rescheduled. Complainant appeared at the hearing and gave a statement. Respondent did not appear at the hearing, although notice thereof was received by Respondent. ADMINISTRATOR, Administrator-Titles, testified regarding the records of the Division. ALJ Exhibits A, B and C were admitted into evidence. Upon conclusion of the hearing, the record was closed and the case was submitted for decision.[5]

[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*").

[4] *OAC*, 710:1-5-22(b).

[5] OAC, 710:1-5-39(a).

FINDINGS OF FACT

1. Complainant applied for and received Title No. 123E, a transfer title, to the mobile home on May 14, 2002, upon presentment of a Return of Sale (Assignment of Ownership), a Notice of Sale and a Proof of Posing and Mailing. ALJ Exhibit A.[6]

2. The lien of Respondent against the mobile home was extinguished by the Title 42 action. ALJ Exhibit A.

3. On November 6, 2002, Respondent applied for and received Title No. 123F, a repo title, upon presentment of an Oklahoma Tax Commission Repossession Affidavit and an Assumption Agreement to the Manufactured Home Retail Installment Contract or Note and Security Agreement executed by PREVIOUS OWNER on or about May 25, 2001. ALJ Exhibit B.

4. On July 25, 2005, Complainant filed a request for a revocation hearing on the repo title acquired by Respondent on the mobile home. In the request, Complainant writes:

> [Respondent] was carrying the note to the home on a PREVIOUS OWNER and MOBILE HOME PARK was carrying the note on the land, which the mobile home was sitting [sic] on. PREVIOUS OWNER moved out of the mobile home and left it abandoned on property belonging to MOBILE HOME PARK, this was February 13, 2002.
>
> On February 13, 2002 I sent a certified letter to [Respondent] giving them 30 days to remove the home from MOBILE HOME PARK property, they acknowledged receiving the letter.
>
> Since [Respondent] did not respond to my letter or attempt to move the home, I filed a Title 42 on 4/15/02. And mailed by certified mail a Notice of Sale to [Respondent], at 123 FAKE STREET, ANYTOWN, Texas 12345, they signed for the Notice of Sale and I received it, but they did not attend the sale or attempt to contact me. A title to the mobile home was issued to BUYER and MOBILE HOME PARK on 5/14/02.

ALJ Exhibit C.

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[6] Exhibit A among other documents consists of: (1) the Return of Sale (Assignment of Ownership) which shows that SELLER/MOBILE HOME PARK, seller, in accordance with the Notice of Sale, offered the mobile home at public sale on April 26, 2002 and sold the mobile home on April 26, 2002 to the SELLER'S LIVING TRUST Dated 6/22/01 for $2,112.00; (2) the Notice of Sale dated April 15, 2002, which shows that a public sale was to be held on April 26, 2002 at 9:30 a.m. at 999 RANDOM ROAD, SMALL TOWN, OK 12345, to satisfy the lien on the mobile home claimed by SELLER d/b/a MOBILE HOME PARK for storage, labor, and parts in the amount of $1,350.00; and (3) the Proof of Posting and Mailing which shows the Notice of Sale was posted at three (3) separate locations and a copy thereof was sent by certified mail, return receipt requested to the record owner of the mobile home, PREVIOUS OWNER, and the lien holder, Respondent.

5. It is the position of the Division that an error or mistake was made in the issuance of the repo title to Respondent since Respondent's lien was extinguished by the Title 42 proceedings to which Respondent had notice.

CONCLUSIONS 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. 123F should be and the same is hereby granted. Respondent's lien against the mobile home was extinguished by the Title 42 action.

DISPOSITION

It is ORDERED that Certificate of Title No. 123F issued to Respondent, RESPONDENT, on the 1998 Oakwood mobile home, Vehicle Identification No. ABC123, be revoked.

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.