



STATE OF KANSAS

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CURT T. SCHNEIDER
Attorney General

October 8, 1975

ATTORNEY GENERAL OPINION NO. 75-390

The Honorable E. Richard Brewster
Kansas State Representative
51st District
5334 S.W. Wanamaker
Topeka, Kansas 66610

Re: Motor Vehicles--Certificate of Title--Late Delivery

Synopsis: Failure of the parties to the sale of a motor vehicle to transfer a certificate of title thereto, with an appropriate assignment, at the time of the sale or within fifteen days thereafter renders the sale void and fraudulent by operation of law, and the sale remains so despite the buyer's subsequent acceptance of certificate of title.

* * *

Dear Representative Brewster:

You inquire whether a sale of a motor vehicle which is void under the above statute for failure of the seller to transfer an assigned certificate of title to the buyer within the period of time permitted by law is rendered valid and binding upon the purchaser's acceptance of a certificate of title beyond the statutory fifteen-day period.

There is no question that failure to comply strictly with K.S.A. 1974 Supp. 8-135(c)(6) results in a sale that is both fraudulent and void. Sims v. Sugg, 165 Kan. 489, 196 P.2d 191; Farmers & Merchants State Bank v. Hunter, 166 Kan. 52, 199 P.2d 196; Bankers Investment Company v. Meeker, 166 Kan. 209, 213, 201 P.2d 117; Wilcox Trailer Sales, Inc. v. Miller, 200 Kan. 315, 436 P.2d 860.

In many jurisdictions wherein provisions is made for the issuance of certificates of title to motor vehicles, the sale or transfer of a motor vehicle is consummated by the assignment

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of the certificate of title to the purchaser or transferee in the method prescribed by statute. Commercial Finance Corporation v. Burke, 173 Ore. 341, 145 P.2d 473. In Kansas, the statutory provisions as to the assignment of the certificate of title to a motor vehicle upon the sale or transfer of the vehicle are viewed as absolute and mandatory and are rigidly enforced by the courts. The assignment of the certificate of title in the manner provided by the statute is the exclusive and only method of transferring title to a motor vehicle.

As the court reiterated most recently in Wilcox Trailer Sales, Inc. v. Miller, supra:

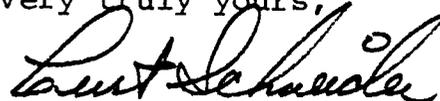
"This court has repeatedly stated that the provisions of 8-135(c)(6) mean exactly what they say, and that they are to be literally interpreted, and strictly enforced, and that failure to comply with its provisions renders the sale of a vehicle required to be registered under the Act fraudulent and void."
200 Kan. at 321.

The sale is not merely voidable, but void. The statute was not designed merely to secure the rights of parties to particular sales. It was designed to implement a public policy:

"The statute was enacted not only to protect the public against fraud and prevent traffic in the sale of stolen automobiles but also to lend stability and certainty in the business climate surrounding each transaction. . ."
Maryland Cas. Co. v. American Family Insurance Group, 199 Kan. 373, at 378-379, 429 P.2d 931 (1967).

If the sale is void ab initio and fraudulent, as the statute says it shall be, nothing the parties can do thereafter will breathe life and vitality into that which the legislature has declared to be wholly without legal effect. Accordingly, it is my opinion that transfer of the certificate of title after the passage of the fifteen-day statutory period does not validate that which the legislature has held shall be invalid, and that the sale remains void notwithstanding the purchaser's acceptance of the belated delivery of title.

Very truly yours,



CURT T. SCHNEIDER
Attorney General