

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re:

Chapter 7

Joseph F. Wehner
94-3-3255

BKY No.

Debtor.

ORDER

This matter initially came before the Court October 11, 1995, upon the Trustee's motion for an order directing transfer of a motor vehicle title. The Court entered an Order dated October 20, 1995, granting the Trustee's motion. The Court directed that the motor vehicle be sold, and the proceeds be deposited in a segregated account. The issue presently before the Court concerns claims against the sale proceeds. Upon review of the briefs and on arguments of the parties; and, otherwise being fully advised in the matter, the Court makes this Order pursuant to the Federal and Local Rules of Bankruptcy Procedure.

I.

Facts

The Debtor and Charles A. Crosby entered an agreement on December 17, 1992, for the sale of a 1969 Chevy Camaro, VIN # 123679N665616. The Debtor purchased the vehicle for \$4,500, placing \$3,500 down, and promising to pay the balance at some time in the future. Crosby did not take a security interest in the vehicle for the remaining \$1000. Instead, he turned over the certificate of title to the Debtor, who in turn, gave it to the Security State Bank, which had loaned Wehner the \$3500 down payment. Crosby completed the seller's portion of the certificate, but did not include information on the title that Wehner was the buyer. The Security State Bank retained possession of the title, as completed by Crosby.

Wehner never paid Crosby the remaining \$1000. The Debtor filed this Chapter 7 bankruptcy case on July 18, 1994. Wehner's debt to Crosby was not included in his schedules, but Wehner did indicate his ownership of the vehicle on his property schedules.

Crosby claims ownership of the vehicle based on his designation as owner on the certificate of title at filing

Crosby claims ownership of the vehicle based on his designation as owner on the certificate of title at filing of the bankruptcy case. Crosby claims that, since he has not received the remaining \$1000, ownership of the vehicle did not pass to Wehner. The Trustee contends that

ownership of a vehicle is determined by extrinsic evidence, including: possession of the vehicle and the title certificate, use of the vehicle and the intent of the parties at the time of the sale. Consideration of these matters, according to the Trustee, leads to the conclusion that Wehner owned the vehicle when the bankruptcy petition was filed; and, that it became property of the Debtor's estate.(1) The Court agrees with the Trustee.

II.

Discussion

The Certificate of Title Act , Minn. Stat. 168A.01 et seq., provides the methodology for transferring of a motor vehicle title from seller to buyer. Registration of an automobile is prima facie evidence of ownership. Minn. Stat. Section 168A.05, subd. 6, (1988). The presumption of ownership by registration is rebuttable by introduction of extrinsic evidence establishing that a sale has occurred; and, that a transfer of title has taken place. *Rife v. One 1987 Chevrolet Cavalier, Minnesota License No. 509-CRC, VIN No. 1G1JE1110HJ112508*, 485 N.W. 2d 318, 321 (Minn. Ct. App. 1992), rev. denied, June 30, 1992. A seller's act of signing and delivering the certificate of title to the buyer is incontrovertible evidence that ownership has passed. Minn. Stat. Section 168A.10 subd. 1 & 2, (1986). See *Welle v. Prozinski*, 258 N.W.2d 912, 916 (Minn. 1977)(transferee not named on the certificate of title but in possession under a bill of sale found to be the owner). The extrinsic evidence the Court may consider in determining ownership of a motor vehicle includes: possession of the vehicle; use of the vehicle; and, possession of the certificate of title. *Id.* at 916; and see *Badger State Mutual Casualty Company v. Swenson*, 404 N.W. 2d 877, at 879 (Minn. Ct. App. 1987).(2)

In considering the relevant extrinsic evidence here, its clear that a transfer of ownership of the 1969 Camaro occurred in December 1992. Upon delivery of the \$3,500 by the Debtor to Crosby, Wehner took possession of the car. Crosby executed the seller's portion of the certificate of title and presented it to Wehner. Wehner used the vehicle as his property for two years.

Crosby first sought to reclaim ownership of the vehicle after the Debtor's filing of his Chapter 7 petition.(3) He has not cited any authority in support of his contention that Wehner's failure to pay the outstanding balance somehow prevented the transfer of ownership in 1992.

III.

Conclusion And Disposition

The Debtor, Joseph F. Wehner, was the owner of the vehicle at the filing of the bankruptcy petition; and, in accordance with 11 U.S.C. Section 541, the vehicle became property of the Debtor's estate free and clear of any liens or other interests. The Trustee is entitled to the sale proceeds, and may distribute them in accordance with the priority provisions of the Bankruptcy Code.

Based on the foregoing, IT IS ORDERED: Charles A. Crosby has no interest in the proceeds from the sale of a 1969 Chevy Camaro, VIN # 123679N665616. The vehicle was property of the Debtor, Joseph F. Wehner, at filing of the bankruptcy case no. 94-3-3255, and became property of the Debtor's estate free and clear of any liens or other interests upon the filing of the bankruptcy petition. The Trustee is entitled and obligated to administer the proceeds as estate property according to the priority provisions of the Bankruptcy Code.
Dated: July 9, 1996

By The Court:

Dennis D. O'Brien
Chief U.S. Bankruptcy Judge

(1)

The Trustee took the position that the Bank's security interest in the car was unperfected, and sought to avoid the lien. The Bank agreed that the lien was not perfected, and voluntarily surrendered the certificate of title and relinquished its claim to the vehicle.

(2)

Minn. Stat. Section 168A.01, subd. 13 defines owner as:

. . . a person, other than a secured party, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, . . .

(3)

Subsequent to the Debtor's bankruptcy filing, Crosby applied to the Department of Motor Vehicles for a duplicate title to the vehicle. A duplicate title was issued on February 8, 1995. The duplicate designated Crosby as the owner of the car and stated that there were no security interests covering the vehicle. But, the certificate was stamped with a notation DUPLICATE TITLE-MAY BE SUBJECT TO THE RIGHTS OF A PERSON UNDER THE ORIGINAL CERTIFICATE. The duplicate certificate was obtained in violation of the automatic stay.