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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2006-CA-000496-MR

CRESTWOOD AUTO SALES

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE BARRY WILLETT, JUDGE
ACTION NO. 01-CI-007038

BOBBY L. COMPTON

APPELLEE

OPINION
REVERSING AND REMANDING

** ** * ** * ** *

BEFORE: TAYLOR AND WINE, JUDGES; PAISLEY,¹ SENIOR JUDGE.

PAISLEY, SENIOR JUDGE: Crestwood Auto Sales appeals from orders of the Jefferson Circuit Court, granting summary judgment to Bobby L. Compton and denying Crestwood's motion to reconsider. The issue is whether, for purposes of liability insurance, Crestwood successfully transferred ownership of an automobile that was later involved in an accident in which Compton was injured.

Crestwood is an automobile dealership located and doing business in Kentucky. It is owned by Milton Miller. On July 8, 1998, Julia Lee purchased a 1991

¹ Senior Judge Lewis G. Paisley sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

Chevrolet Lumina from Crestwood at the Clark County Auto Auction in Jeffersonville, Indiana. Although the transfer occurred in Indiana, the Lumina was registered in Kentucky and bore a Kentucky certificate of title. Milton Miller endorsed the back of the certificate of title and delivered it, along with the Lumina, to Clark Auto Auction. According to Stephanie McGuire, the Manager of Clark Auto Auction, Lee paid the total sales price of \$1,950.00 with a personal check. The vehicle, with the endorsed title, was physically transferred to Lee on July 9, 1998. Julia Lee never registered the vehicle in her name with the Jefferson County Clerk's office, nor did she obtain liability insurance coverage.

On November 2, 1999, Terrance Fountain, an acquaintance of Julia Lee's, was driving the Lumina and collided with a vehicle driven by Bobby Compton. Compton suffered personal injuries, resulting in damages that were later stipulated at \$100,000.00. He filed suit in Jefferson Circuit Court, alleging that ownership of the Lumina had never been transferred to Lee from Crestwood and that Crestwood was therefore still responsible for insuring the vehicle. Compton moved for summary judgment on the issue of the ownership of the automobile for purposes of liability insurance on August 27, 2003.

Compton's motion was granted by the court on the grounds that a VTR ("Vehicle Transaction Record") was not provided to Julia Lee by Crestwood at the time of the transfer. The trial court based its decision on Kentucky Revised Statutes (KRS)

186A.220, which sets out the procedure an automobile dealer must follow in order to transfer title. Prior to 1996, the pertinent section of the statute provided as follows:

When he [the dealer] assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, **and a properly executed vehicle transaction record**, to such purchaser, who shall make application for registration and a certificate of title thereon.

(Emphasis supplied.)

Crestwood moved the court to reconsider its grant of summary judgment on the grounds that the statute had been significantly revised in 1996. It now states:

When he [the dealer] assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title, **and other documents if appropriate**, to such purchaser, who shall make application for registration and a certificate of title thereon.

(Emphasis supplied.)

Crestwood's motion was denied, and the court declared its grant of summary judgment final and appealable in an order entered on February 13, 2006. This appeal followed.

Crestwood argues that the trial court erred in its grant of summary judgment to Compton because under the terms of the revised statute, a VTR is not always necessary in order to transfer ownership of an automobile. We agree, based on the explanation provided by our state Supreme Court in *Nance v. Lexington Lincoln Mercury*, 947 S.W.2d 36 (Ky. 1997), which states:

[T]wo statutes, KRS 186A.215 and 186A.220, delineate the procedure to be followed when ownership to a motor vehicle is transferred. KRS 186A.215(1), the general requirements for transfer of vehicle ownership, provides that one may

transfer title to a motor vehicle simply by completing the assignment and warranty of title portion of the certificate of title form and by filling in the federally-required odometer statement. Additionally, if “the owner’s certificate of title fails to meet Kentucky’s requirements for a lawful conveyance of title or . . . the owner’s certificate of title fails to meet the requirements for the owner to execute an odometer disclosure statement . . . ,” the transferor must further complete and deliver a VTR. KRS 186A.215(1).

...

Thus, according to KRS 186A.215, a transfer of title takes place when the seller completes and signs the assignment of title section of the title certificate and delivers it to the buyer.

Nantz , 947 S.W.2d at 37.

Under the statutory scheme as outlined by the Supreme Court, a VTR is not necessary to complete a lawful conveyance if the certificate of title meets certain requirements. There is no evidence that the Lumina's certificate of title failed to meet the statutory requirements which would have necessitated the provision of a VTR. This conclusion is further supported by KRS 186A.060, which states that

The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. **When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership.** When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title.

Compton’s primary argument on appeal is that the transfer to Julia Lee was ineffective because Crestwood failed to ensure that she had liability insurance before transferring ownership of the car. Under *Gainsco Companies v. Gentry*, 191 S.W.3d 633

(Ky. 2006), however, it is clear that such an inquiry is necessary only when a “dealer wishes to effectively transfer ownership of a vehicle **without** simultaneously transferring possession of the certificate of title[.]” *Gainsco*, 191 S.W.3d at 636 (emphasis supplied). “[W]hen a car dealer fails to obtain proof of insurance before possession is transferred, he takes the risk that he and/or his insurer will be held liable if the purchaser causes an accident **prior to the transfer of the certificate of title for the newly-purchased vehicle**. *Id.* at 637 (emphasis supplied). In this case, the transfer of the certificate of title was made simultaneously with the transfer of possession of the car.

[W]hen the proper legal documents are transferred from the dealer to the buyer, the responsibility for insurance coverage on the part of the dealer ceases. . . . To hold a commercial dealer responsible for a motorist who consciously chooses to disobey the law and drive his motor vehicle uninsured . . . fails to reach the appropriate result in light of our established precedent.

Nantz, 947 S.W.2d at 39.

The summary judgment of the Jefferson Circuit Court is hereby reversed and the case is remanded for further proceedings in accordance with this opinion.

ALL CONCUR.

BRIEFS FOR APPELLANT:

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BRIEF FOR APPELLEE:

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