

DISTRICT OF COLUMBIA COURT OF APPEALS

Smith v. Acorn

32 A.2d 252 (D.C. 1943) · Decided January 29, 1943

SUMMARY

The court considers whether the execution and delivery of an assigned automobile certificate of title completed a gift inter vivos, despite the donor’s retention of physical possession and continued acts associated with ownership. It holds that delivery of the written instrument transferring title was sufficient delivery of the automobile and that the donor’s subsequent custody and use did not revoke or invalidate the gift. The judgment for the executor is reversed and the case is remanded.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Richardson, Chief Judge; Cayton; Hood; Richardson
JURISDICTION	District of Columbia
DECIDED	January 29, 1943
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellant challenged a judgment in a replevin action awarding the executor possession of an automobile, or its ascertained value, after the trial court found that an alleged gift of the automobile was incomplete for lack of delivery.
STANDARD OF REVIEW	De novo review of a question of law arising from undisputed facts.
PRECEDENTIAL VALUE	Published opinion; precedential value not otherwise specified in the source.
PARTIES	Nellie Smith v. Executor of Harry H. Nichols

TOPICS

- probate
- estate litigation
- remedies

PRACTICE AREAS

- probate
- property
- civil remedies

QUESTIONS PRESENTED

1. Whether execution, acknowledgment, and delivery of an assignment of an automobile certificate of title, accompanied by donative intent, constituted sufficient delivery to complete an inter vivos gift despite the donor's retention of physical possession.
2. Whether the donor's continued custody and use of the automobile, insurance coverage, and registration in his own name negated the completed gift or showed that the gift was testamentary rather than present.

HOLDINGS

1. Delivery of the executed and acknowledged assignment on the certificate of title, together with donative intent, constituted sufficient delivery of the automobile and vested complete title in the donee.
2. The donor's continued physical custody and use of the automobile, insurance coverage, and registration activity did not nullify or revoke the completed gift.

KEY QUOTATIONS

"We think this correctly states the rule of law applicable here." (255)

"Applying these principles in the present case we think that the transfer of title by the execution, acknowledgment and delivery of the assignment of the certificate of title to the automobile invested in the donee a complete title as of that time." (256)

FACTUAL BACKGROUND

Harry H. Nichols purchased and registered an automobile in his own name. He later executed, acknowledged, and delivered to Nellie Smith the assignment on the certificate of title, gave her the keys, and stated that he wanted her to have the automobile if anything happened to him. Nichols nevertheless retained the automobile in his garage, continued using it, maintained insurance, and obtained registration tags in his own name until his death; Smith retained the certificate and keys and later obtained a new certificate in her name.

PROCEDURAL HISTORY

The executor of Harry H. Nichols brought a replevin action to recover an automobile possessed by Nellie Smith. The trial court found for the executor and entered judgment for possession of the automobile or \$445.00. The District of Columbia Court of Appeals reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the determination that the automobile had been validly gifted to the appellant.

CASES CITED

- Tierney v. Corbett, 2 Mackey 264, 13 D.C. 264

- Jones v. Deyer, 16 Ala. 221
- Jaggars v. Estes, 2 Strob. Eq. 343, 49 Am. Dec. 674
- Parker v. Mott, 181 N.C. 435, 107 S.E. 500, 25 A.L.R. 637
- Tucker v. Tucker, 138 Iowa 344, 116 N.W. 119
- Howard v. Hobbs, 125 Md. 636, 94 A. 318
- Conlon v. Turley, 56 App. D.C. 95, 10 F.2d 890
- Sorrells v. Collins, 110 Ga. 518, 36 S.E. 74, 75
- Sylvain v. Page, 84 Mont. 424, 276 P. 16, 63 A.L.R. 528

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