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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2338**

Vernon Gardinier,
Appellant,

vs.

Maryland Avenue Auto Sales, Inc.,
defendant and third party plaintiff,

Respondent,

vs.

Phillip Murray Gardinier,
Third Party Defendant.

**Filed November 25, 2008
Affirmed
Collins, Judge***

Ramsey County District Court
File No. 62-C9-06-008336

James C. Skoog, 151 Silver Lake Road, #210, New Brighton, MN 55112 (for appellant)

Maryland Avenue Auto Sales, 12200 Upper Heather Avenue North, Hugo, MN 55038
(respondent)

Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and
Collins, Judge.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

COLLINS, Judge

Appealing from the district court's dismissal of his claims for possession of a motorcycle that was repossessed by respondent, appellant argues that the district court erred by finding that (1) respondent reasonably relied on a certificate of title in appellant's brother's name when respondent made a loan to appellant's brother and (2) appellant failed to prove that he was a good-faith owner of the motorcycle when the loan was made and the lien was attached to the motorcycle. Because respondent reasonably relied on appellant's brother's certificate of title when the loan was made and appellant failed to establish that he was the good-faith owner of the motorcycle at the time, we affirm.

FACTS

On August 13, 2003, Phillip Gardinier obtained title to a motorcycle valued at approximately \$25,000. Department of Public Safety (DPS) records establish that on December 1, 2004, Phillip Gardinier gratuitously transferred title to the motorcycle to his brother, appellant Vernon Gardinier, and the two filed transfer documents with the DPS. The DPS did not issue a certificate of title in appellant's name as a result of this filing, and appellant did not request a certificate of title. Other than for a brief period of time in December 2004, the motorcycle remained in Phillip Gardinier's possession. Appellant was not licensed to operate a motorcycle at the time of the title transfer, nor did he insure the motorcycle.

On April 6, 2005, more than four months after transferring title to appellant, Phillip Gardinier filed an Application to Title a Motor Vehicle with the DPS. According to the DPS, it erroneously issued a certificate of title to Phillip Gardinier rather than to appellant. On July 21, 2005, Phillip Gardinier used the certificate of title to obtain a loan from respondent Maryland Avenue Auto Sales, Inc. (Maryland), pledging the motorcycle as security. Phillip Gardinier defaulted on the loan, and Maryland repossessed the motorcycle in spring 2006. After learning that the motorcycle had been repossessed, appellant contacted the DPS. The DPS demanded that Phillip Gardinier either submit a bill of sale from appellant or return the certificate of title. In July 2006, the DPS issued a certificate of title in appellant's name and revoked the title in Phillip Gardinier's name.

After unsuccessfully attempting to retrieve the motorcycle from Maryland, appellant commenced this lawsuit, seeking to recover the motorcycle. Following a bench trial, the district court dismissed appellant's claims and allowed Maryland to lawfully sell the motorcycle. This appeal followed.

DECISION

I.

Appellant first argues that the district court erred by disregarding evidence that the DPS issued a certificate of title to the wrong party when the district court determined that Maryland reasonably relied on the certificate of title in Phillip Gardinier's name. To the contrary, Maryland argues that the presumption of ownership created by the certificate of title cannot be rebutted with extrinsic evidence of mistaken issuance of a certificate of title by the DPS.

“A reviewing court need not defer to the district court’s application of the law when the material facts are not in dispute.” *Engler v. Wehmas*, 633 N.W.2d 868, 872 (Minn. App. 2001) (citing *Hubred v. Control Data Corp.*, 442 N.W.2d 308, 310 (Minn. 1989)), *review granted* (Minn. Dec. 19, 2001), *appeal dism’d* (Minn. Apr. 5, 2002). The transfer of a motor-vehicle title in Minnesota is governed by Minn. Stat. § 168A.10, enacted in 1971 as part of the Motor Vehicle Certificate of Title Act (Motor Vehicle Act). *Am. Nat’l Gen. Ins. Co. v. Solum*, 641 N.W.2d 891, 895 (Minn. 2002). Caselaw addressing the admissibility of extrinsic evidence to rebut vehicle ownership stems from the creation of this act which, in part, changed the operation of the presumption of ownership of an automobile. *See id.* at 896. “Prior to the enactment of § 168A.10, the fact that an individual’s name appeared on the certificate of title as the owner of the vehicle was prima facie evidence of his ownership of the automobile. This presumption of ownership was rebuttable rather than conclusive on the issue of ownership.” *Id.* (quoting *Welle v. Prozinski*, 258 N.W.2d 912, 916 (Minn. 1977)). After Minn. Stat. § 168A.10 became effective, however, “the presumption of ownership established by the certificate of title, that [prior to 1971] was generally rebuttable, became for the most part conclusive.” *Id.* at 899.

Most Minnesota Supreme Court cases deal with the nature of this presumption, rather than address the precise issue presented here—specifically, the admissibility of evidence that the DPS issued a certificate of title to the wrong party. As the *Solum* court noted, the rebuttable presumption of ownership has been applied only “for purposes of vicarious liability under the Motor Vehicle Act and liability under the No Fault Act,” and

not “beyond these ‘circumscribed’ limits.” *Id.* at 898; *see, e.g., Welle*, 258 N.W.2d at 916 (holding that extrinsic evidence is admissible to rebut presumption of ownership created by certificate of title to avoid vicarious liability under Safety Responsibility Act); *Arneson v. Integrity Mut. Ins. Co.*, 344 N.W.2d 617, 619 (Minn. 1984) (holding that certificate of title created presumption that could be rebutted with extrinsic evidence “for purposes of avoiding the compulsory insurance provisions of the [no-fault act].”).

We are better guided by *Bank North v. Soule*, where a lender brought a replevin action against a borrower who used a vehicle as collateral for a loan after he had allegedly sold the vehicle to a third party. 420 N.W.2d 598, 599-600 (Minn. 1988). The third-party purchaser sought to defeat the lender’s security interest and retain physical possession of the vehicle, arguing for the introduction of extrinsic evidence to rebut the presumption of the seller’s/borrower’s ownership. *Id.* at 601. The supreme court declined to extend the rebuttable presumption analysis beyond the two contexts to which it had been applied—for purposes related to vicarious liability and no-fault-insurance liability:

In all our cases in which a rebuttable presumption has been applied or considered, both before and after 1971, the issue has surfaced and been addressed in the context of an inquiry to establish whether a particular person acquired ownership or title to an automobile either for the assessment of vicarious liability under Minn. Stat. § 170.54 (the Safety Responsibility Act) or under Minn. Stat. § 65B.48 (1986) (the Minnesota No Fault Act). In each of those situations the inquiry has been focused upon the ascertainment of automobile ownership for the ultimate purpose of establishing the proper party against whom a tort claimant should address his or her tort-like claim for recovery of personal injury damages. . . . In contrast, in a commercial setting, a transferee

of the vehicle, or, as in this case, one lending money, repayment of which is secured by the vehicle, does rely upon the certificate of title at the time to purchase or to loan money on security of the vehicle. Indeed, that right to rely seems to be the specific purpose underlying the 1971 statutory enactment. Notwithstanding this difference, [appellant] now urges the court to write into the statute this rebuttable presumption analysis when considering priorities to the vehicle in a commercial transaction. We decline that invitation. In our opinion, were we to so hold the different public policy considerations prompting legislative enactment of Minn. Stat. ch. 168A in 1971 would be appreciably frustrated.

Id. at 601-02. In precluding extrinsic evidence to rebut vehicle ownership in a commercial transaction, the supreme court recognized public policy reasons underlying the need for vehicle-title registration acts, namely, “to afford certainty in commercial transactions involving sales and financing of automobiles.” *Id.* at 603.

Subsequently, the supreme court decided *Solum*, a case involving insurance coverage for a vehicle registered to the driver’s wife but allegedly owned by the couple’s son. 641 N.W.2d at 893. Although factually distinct from this case, *Solum* is instructive:

Thus we have stated, whether directly or by implication, that the rebuttable presumption of ownership applies with respect to the named owner on a motor vehicle title where there is noncompliance with the transfer provisions of the Motor Vehicle Act to prove the identity of the *true* owner of the vehicle for tort and tort-like claims—but the rebuttable presumption has not been applied beyond these “circumscribed” limits.

Id. at 898.

Appellant argues that, although Phillip Gardinier had a certificate of title for the motorcycle when he used it as collateral for the loan, the certificate of title was

mistakenly issued and appellant was the true owner of the vehicle. As indicated, the supreme court has addressed whether a certificate of title creates a rebuttable presumption on multiple occasions, consistently holding that there are only two situations in which extrinsic rebuttal evidence is permitted. Thus, the question for our determination is whether evidence of a mistake made by the DPS in issuing a certificate of title to the wrong party falls within either two existing exceptions or, if not, whether an additional exception should be recognized.

The two existing exceptions focus on identifying the proper party to be sued in a tort or tort-like claim for recovery of personal injury damages. *Bank North*, 420 N.W.2d at 601-02. This case does not involve such a claim, and is not factually similar to any precedent recognizing the two exceptions. As to whether another exception should be recognized, the supreme court has had opportunities to extend the admissibility of extrinsic evidence to rebut ownership and has consistently declined to do so. *See Auto-Owners Ins. Co. v. Forstrom*, 684 N.W.2d 494, 498-99 (Minn. 2004); *Solum*, 641 N.W.2d at 898.

In *Bank North*, the supreme court also addressed the public-policy justifications for the Motor Vehicle Act's filing provisions in commercial transactions, namely, to create a system on which vehicle transferees and secured parties can rely. 420 N.W.2d at 603. In *Forstrom*, the supreme court stated that the insurance company had presented "no policy basis supporting the creation of additional exceptions to the rule set out in *Solum*," *Forstrom*, 684 N.W.2d at 499 n.6, seemingly implying that the presentation of such a policy basis may have some influence. Related to public policy, appellant argues

that the district court's holding: (1) "takes away the authority of the state to correct its titling errors" by not honoring the DPS's attempt to correct its error in accordance with statutory guidelines and (2) negates the titling statute's goals of protecting transferees because it disregards the transfer of title from Phillip Gardinier to appellant. As to appellant's first argument, the statute dealing with revocation of a certificate of title on finding that it had been erroneously issued states that "[s]uspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it." Minn. Stat. § 168A.23, subd. 2 (2006).

As to appellant's second argument, the *Bank North* court observed that the legislature designed the filing system "to afford protection to transferees and secured parties in commercial transactions involving the vehicle" and "certainty in commercial transactions involving sales and financing of automobiles." 420 N.W.2d at 603. As they relate to the protection of transferees, the two statements indicate that the protection being offered is the ability to determine the status of the transferor's title without verifying it with the DPS. Here, however, the status of Phillip Gardinier's title when he transferred the vehicle to appellant is undisputed. Rather, the question is whether that transfer affects Maryland's reliance on the certificate of title that was issued in Phillip Gardinier's name at the time Maryland granted the loan.

A lender must be able to reasonably rely on a certificate of title without needing to seek further proof of ownership from the DPS or other sources. The supreme court has recognized only two circumstances under which extrinsic evidence may be introduced to rebut ownership. Given the practical consequences in the commercial setting if lenders

were not able to rely on certificates of title, we decline to extend those exceptions under these circumstances.¹ Thus, the district court did not err by finding that respondent reasonably relied on the certificate of title.

II.

Appellant also argues that the district court erred by finding that appellant failed to prove by a preponderance of the evidence that he was the good-faith owner of the motorcycle when the loan was made to Phillip Gardinier. “A certificate of title issued by the [DPS] is prima facie evidence of the facts appearing on it.” Minn. Stat. § 168A.05, subd. 6 (2006). “The question of ownership is a question of fact.” *Holland Am. Ins. Co. v. Baker*, 272 Minn. 473, 478, 139 N.W.2d 476, 480 (1965). “Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.” Minn. R. Civ. P. 52.01.

The district court concluded that the certificate of title in Phillip Gardinier’s name was prima facie evidence of his ownership when the loan was made and that there were additional indicia to support Phillip Gardinier’s ownership at that time. The district court found that Phillip Gardinier maintained possession of the motorcycle throughout the time in question, with the possible exception of a few days; that appellant did not insure the motorcycle, which was worth approximately \$25,000; and that appellant was not licensed

¹ “[T]he task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court.” *Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987), review denied (Minn. Dec. 18, 1987).

to operate a motorcycle at the time of the purported gift. The district court also found that Phillip Gardinier continued to treat the motorcycle as his own because he stored it, drove it, and used it as collateral.

Appellant does not contend that the district court's findings that the motorcycle was not insured and was kept in Phillip Gardinier's garage were erroneous. Rather, he argues that the district court did not credit appellant's reasons for failing to insure or store the motorcycle, which were because he was "more concerned about paying bills and taking care of his 12-year-old son." But we have consistently held that credibility determinations are exclusively the province of the fact-finder and will not be set aside unless they are clearly erroneous. *State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003), *review denied* (Minn. July 15, 2003). That exception is not met on the record of this case.

Affirmed.