

by a justice of the peace, the constable of said court who conducts the sale should properly execute the bill of sale.

In an opinion of my predecessor, found in Opinions of the Attorney General for the year 1928, page 60, Section 6310-8, supra, was under consideration in connection with the sale by a sheriff or other like officer. The conclusion of the then Attorney General, as disclosed by the syllabus, was :

“The provisions of Section 6310-8, General Code, in so far as they require a sheriff, bailiff or other like officer selling an automobile on order of court, to deliver to the transferee ‘all former bills of sale or statements of ownership’ with the bill of sale executed by such officer, do not apply where such officer, in the exercise of the utmost diligence to obtain such former bills of sale or statements of ownership or certified copies thereof, is unable to do so. In such case the bill of sale executed by such officer should contain a full and complete statement of facts showing such impossibility as a part of the ‘special facts in the premises’ provided for in said section of the General Code.”

Without further discussion and in specific answer to the inquiry submitted, it is my opinion that where a motor vehicle is sold on execution issued by a justice of the peace the bill of sale should be issued to the purchaser by the constable conducting the sale.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1971.

APPROVAL, ABSTRACT OF TITLE TO REAL ESTATE OF WALTER E. ISALY, TRUSTEE, IN COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, June 12, 1930.

The State Office Building Commission, Columbus, Ohio.

GENTLEMEN :—Under date of June 6th, 1930, I directed to you Opinion No. 1950 of this office with respect to the title to the south half of an eighty (80) foot parcel of land off of the east end of Inlot No. 114, therein more particularly described. In said opinion, I found that Walter E. Isaly, Trustee, the owner of record of said property, had a good and indefeasible legal title in and to said property, subject only to exceptions therein noted with respect to certain taxes and assessments upon said property.

Since the foregoing opinion was directed to you, I have been advised that said Walter E. Isaly holds the legal title to said property as trustee for Charles W. Isaly and Bertha Isaly, wife of said Charles W. Isaly.

There has, at this time, been submitted to me two deeds conveying the property here in question to the State of Ohio.

The first deed is a warranty deed executed by said Walter E. Isaly, Trustee, and by Henrietta H. Isaly, his wife, conveying this property to the State of Ohio. Upon an examination of said deed, I find that the same has been properly executed and acknowledged by said Walter E. Isaly, Trustee, and by Henrietta H. Isaly, his wife, and that said deed, as to form, is sufficient to convey the property here in question to the State of Ohio, free and clear of all encumbrances except the taxes and assessments due and payable on and after the June, 1930, payment.

The other deed above referred to is a quit claim deed, executed by Charles W. Isaly and Bertha Isaly, his wife, who, as above noted, are the beneficiaries of the trust upon and by which said Walter E. Isaly owns and holds said property as trustee. Upon examination of this deed, I find that the same has been properly executed and acknowledged by said Charles W. Isaly and Bertha Isaly, and that the same, as to form, is sufficient to convey to the State of Ohio all of the right, title and interest of said grantors in and to this property.

Said deeds, and each of them, are accordingly hereby approved.

Upon examination of Encumbrance Estimate No. 625, covering the purchase of the property here in question, I find that the same has been properly executed and that there is shown by the provisions thereof that there are sufficient balances in the proper appropriation account to pay the purchase price of this property, amounting to \$25,548.00, and said Encumbrance Estimate is hereby approved.

I am herewith returning to you the abstract of title relating to this property, the respective deeds of Walter E. Isaly, Trustee, and of Charles W. Isaly and Bertha Isaly, above referred to, and said Encumbrance Estimate No. 625.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1972.

VACANCY—OFFICE OF COUNTY SURVEYOR—LENGTH OF TERM OF APPOINTEE.

SYLLABUS:

A county surveyor who has been appointed under the provisions of Section 2785, General Code, to fill a vacancy in the office of county surveyor should now continue in office under such appointment until the general election for the office of county surveyor to be held in November, 1932, at which time a successor should be elected to fill the remaining unexpired term between the date of the November, 1932, election and the first Monday in January, 1933.

COLUMBUS, OHIO, June 12, 1930.

HON. RAYMOND B. BENNETT, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“By virtue of G. C. 2782, the term of the county surveyor was made to be four years. By virtue of G. C. 2785 when a vacancy occurs in the office, the county commissioners are empowered to appoint a county surveyor. The question which has arisen in this county is as follows: Does the person so appointed fill the unexpired term or serve until the next general election?

G. C. 2785 seems to imply, the following words having been used, ‘upon giving bond and taking the oath of office as required of the county surveyor elect,’ that the appointee fills the unexpired term; however, G. C. 10 contains the following sentence: ‘Unless otherwise provided by law, such successor shall be elected for the unexpired term at the first general election for the office which is vacant that occurs more than thirty days after the vacancy which has occurred,’ indicates differently.”

Section 2782, General Code, provides: