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MOTOR VEHICLE — WHERE OWNED BY DECEDENT AND SALE MADE BY ADMINISTRATOR—PURCHASER REQUIRED TO FILE APPLICATION FOR CERTIFICATE OF TITLE IN COUNTY OF RESIDENCE—SECTION 6290-5 G. C.—“OPERATION OF LAW.”

SYLLABUS:

Where an administrator sells a motor vehicle which was owned by his decedent, the purchaser thereof is required to file his application for a certificate of title in the county of his residence as provided in Section 6290-5, General Code.

Columbus, Ohio, August 26, 1940.

Hon. Cylon W. Wallace, Registrar,
Bureau of Motor Vehicles,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your recent request for my opinion which reads as follows:

“Calling your attention to the Ohio certificate of title law with specific reference to the provisions of Sections 6290-5 and 6290-10, will you please give us your opinion as to the following:

A person residing in Madison County owning a motor vehicle and having had a certificate of title issued in his name by the Madison County Clerk of Courts, became deceased. The duly appointed administrator of the estate executed an assignment of the motor vehicle in the proper space on the reverse side of the certificate as administrator to a person residing in Franklin County. Should the person residing in Franklin County who is receiving the car apply for a title in Franklin County or in Madison County?”

Sections 6290-5 and 6290-10, General Code, referred to in your communication, provide in part:

Section 6290-5, General Code:

“Application for a certificate of title shall be made upon a form hereinafter prescribed by this chapter; and shall be sworn

to before a notary public or other officer empoweed to administe oaths; and shall be filed with the clerk of courts of the county in which the applicant resides if the applicant be a resident of this state or if not such resident, in the county in which the transaction is consummated; * * *.”

Section 6290-10, General Code:

“In the event of the transfer of ownership of a motor vehicle by operation of law as upon inheritance devise or bequest, order in bankruptcy, insolvency, replevin or execution sale, or whenever the engine of a motor vehicle is replaced by another engine, or whenever a motor vehicle is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract or other like agreement, the clerk of courts of the county in which the last certificate of title to said motor vehicle was issued, * * * may issue to the applicant a certificate of title thereto. * * *”

From the above it is apparent that in all cases except where the ownership of a motor vehicle is transferred by operation of law, or when such transfer is in connection with any of the situations enumerated in Section 6290-10, General Code, the application for a certificate of title must be filed in the county where the applicant resides.

The term “operation of law” is defined in Bouvier’s Law Dictionary as:

“A term applied to indicate the manner in which a party acquires rights without any act of his own: as the right to an estate of one who dies intestate is cast upon the heir at law, by operation of law.”

In a situation where an administrator sells an automobile to a purchaser, obviously, ownership has not transferred by “operation of law” as herein defined. Consequently, since such situation does not fall within the provisions of Section 6290-10, General Code, the application for a certificate of title must be filed in the county where applicant resides.

Therefore, in specific answer to your inquiry, I am of the opinion that where an administrator sells a motor vehicle which was owned by his decedent, the purchaser thereof is required to file his application for a certificate of title in the county of his residence as provided in Section 6290-5, General Code.

Respectfully,

THOMAS J. HERBERT,
Attorney General.