

1974 WL 27204 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 18, 1974

***1 RE: Magistrates Salen**

Honorable Michael R. Davis
Magistrate
Richland County
5710 Davidson Road
Columbia, S. C. 29209

Dear Judge Davis:

Inquiry has been made regarding the effect which a security interest held in an automobile has upon a purchaser's title to such automobile when it is judicially sold pursuant to Section 45-550, S. C. Code of Laws (1962), dealing with repair and storage liens. In the opinion of this office the provisions of Sections 10-1780 & 1790, S. C. Code of Laws (1962), are dispositive, holding that at judicial sales bona fide purchasers for value without notice take clear title to whatever has been sold. The policy in this State is to uphold the validity of judicial sales, and a good faith purchaser for value takes clear title to property sold by a court of competent jurisdiction. See Cumbe v. Newberry, 251 S.C. 33, 159 S.E.2d 915 (1968); Hutto et al. v. Hutto et al., 189 S.C. 26, 199 S.E. 909 (1938). (Additionally, I enclose for information a copy of ?? Attorney General Opinion No. 2355 stating that under the provisions of Section 10.9-310, S. C. Code of Laws, as amended, a lien for repairs or storage under Section 45-550 is superior to a prior purchase money security in respects in the motor vehicle involved.)

Secondly, you inquire whether a magistrate must keep a permanent record of the purchasers of property at a judicial sale. No statutory requirement for such a record exists and, in the opinion of this office, there is no such requirement imposed by law. However, it is imperative that the notice provisions in the statutes authorizing magistrates sales be closely followed so that all persons having an interest in the property to be sold will be bound by the sale. Otherwise there could be a need to trace the property, which in turn would make permanent records desirable.

Very truly yours,

John B. Grimbell

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