

STATE OF MICHIGAN
COURT OF APPEALS

NANCY J. WESTVELD,

Plaintiff-Appellee,

v

TOBIAS E. O'BRIEN,

Defendant-Appellant.

UNPUBLISHED

March 15, 2005

No. 251830

Wayne Circuit Court

LC No. 03-301242-CZ

Before: Murray, P.J., and Markey and O'Connell, JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's order granting plaintiff's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff is defendant's maternal aunt. Plaintiff's spouse, Dr. Anton Westveld, owned a 1991 Harley Davidson motorcycle. It was transferred to plaintiff after Dr. Westveld's death in 2000. Plaintiff offered to give the motorcycle to defendant. Defendant did not take physical possession of the motorcycle, however, until early June of 2002. The title to the motorcycle was never transferred to defendant. Plaintiff maintains that she did not complete the gift because defendant failed to satisfy certain conditions she placed upon the gift, such as completing a motorcycle safety and training course, obtaining an appropriate driver's license endorsement, and obtaining insurance. Nevertheless, plaintiff admits that she gave defendant permission to take the motorcycle. The parties had a disagreement and plaintiff sought to regain possession of the motorcycle. Defendant would not return it. Plaintiff filed suit for delivery of the motorcycle and for conversion. The parties filed cross-motions for summary disposition. The trial court granted plaintiff's motion for summary disposition and ordered defendant to return the motorcycle. Citing *Osius v Dingle*, 375 Mich 605; 134 NW2d 657 (1965), the trial court found that the gift was not "fully consummated" because plaintiff never officially transferred the motorcycle's title to defendant.

Defendant maintains that the trial court's reliance on *Osius* was incorrect and that summary disposition was inappropriate. We find that it was not. Contrary to defendant's position, this case is governed by *Osius*, or more particularly by *Taylor v Burdick*, 320 Mich 25; 30 NW2d 418 (1947), a case cited in *Osius*. As plainly set forth in *Osius*, a gift is not complete unless title passes to the donee. *Osius*, *supra* at 611. This requirement is taken from *Taylor*, which itself specifically dealt with the attempted gift of an automobile. *Taylor* held that for a gift

of an automobile to be valid, the donor must indorse and deliver the automobile's certificate of title to the donee. *Taylor, supra* at 29-31. Citing to the motor vehicle laws in effect at the time,¹ the *Taylor* Court found that the donor's failure to indorse the automobile's certificate of title rendered the attempted gift ineffective. *Id.* at 31-32. The motor vehicle laws have been rewritten since *Taylor* was decided, but at the time of the alleged gift here, they continued to require a transferor of an automobile to indorse and deliver the vehicle's certificate of title to the purchaser or transferee. MCL 257.233(1), (8).

In the instant case, the motorcycle in question is covered by the same title and registration requirements, MCL 257.216, and the parties do not dispute that the certificate of title to the motorcycle remains in plaintiff's name. Therefore, pursuant to *Taylor* and *Osius*, we find that the trial court did not err when it granted summary disposition to plaintiff. Plaintiff's failure, deliberate or otherwise, to transfer the title to defendant rendered the gift invalid.

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell

¹ 1921 PA 46 § 3.