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James M. Dolliver

WORTHLESS CHECK TRANSACTIONS: REM. REV. STAT. 2129, SECTIONS 23 AND 24 OF THE UNIFORM SALES ACT, THE MOTOR VEHICLE REGISTRATION ACT

JAMES M. DOLLIVER

Recently the Washington Supreme Court considered two cases involving the exchange of goods for a worthless check with a subsequent sale to a bona fide purchaser.[1] In the first case the Court found for the bona fide purchaser while in the later case the original owner prevailed. Fairness to the Court compels the statement that the reason for this surprising reversal was not mere caprice but seemed rather to stem from a little used statute passed in 1854, the construction of which was controlling in each opinion. The pertinent portion of the statute in question, Rem. Rev. Stat. § 2129,[2] reads as follows:

> Restoration of Stolen Property—Duty of Officer. All property obtained by larceny, robbery, or burglary, shall be restored to the owner; and no sale, whether in good faith on the part of the purchaser or not, shall divest the owner of his rights to such property. . . .

Whatever may have been the purpose of the 1854 territorial legislators, the chief impact of the statute has been in the field of worthless check sales.

The objective of this article is to examine Section 2129 as it has been construed by the Court and as other legal doctrines pertain to it, and attempt to evaluate the validity of the Court's current approach to it. Since the primary application of the statute has been in the area of worthless check transactions, there will be a discussion of the relationship of Section 2129 to the Uniform Sales Act[3] and an examination of the problems raised in *Hutson v. Walker*[4] and *Richardson v. Seattle-First National Bank*[5] *vis-à-vis* the motor vehicle ownership and registration statutes.

To date the Court has construed Section 2129 seven times,[6] but only

[1] Hutson v. Walker, 37 Wn. 2d 12, 221 P. 2d 506 (1950); Richardson v. Seattle-First National Bank, 138 Wash. Dec. 298, 229 P. 2d 341 (1951).

[2] [P.P.C. § 112-97].

[3] REM. REV. STAT. § 5836-1 to 5836-79 [P.P.C. § 851-1 to 869-9].

[4] Note 1 *supra.*

[5] Note 1 *supra.*

[6] Linn v. Reid, 114 Wash. 609, 196 Pac. 13 (1921); Harris v. Northwest Motors Co., 116 Wash. 412, 199 Pac. 992 (1921); Keck v. Yakima Savings and Loan Association, 160 Wash. 430, 295 Pac. 483 (1931); Rosenkranz v. Guaranty Trust Co., 160

Linn v. Reid,[7] *Frye & Co. v. Boltman*,[8] *Hutson v. Walker*,[9] and *Richardson v. Seattle-First National Bank*[10] have relevance to the worthless check situation. In the *Linn* case, *P* traded his car to *X* and *Y* for a car stolen by them. *X* and *Y* sold *P*'s car to *D*, a bona fide purchaser. The Court, in finding for *D*, held that *X* and *Y* had obtained the car by false pretenses, and since such an offense was not included in the word "larceny" as used in Section 2129, this statute did not apply and the bona fide purchaser would be protected.[11] In reaching this conclusion, the Court reasoned that since at the time of the passage of Section 2129,[12] obtaining property by false pretenses was not included in the statutory definition of larceny and was not considered to be larceny,[13] property obtained by larceny would come under Section 2129 *only* if the act of obtaining was considered to be larceny in 1854. This result was reached even though the Criminal Code of 1909[14] included the crime of obtaining property by false pretenses in the larceny statute.[15]

The next occasion on which the Court considered Section 2129 was in *Frye & Co. v. Boltman*.[16] This case concerned the sale of a team of horses to *X* who posed as one *M*. After giving a worthless check to *P* and receiving the horses in exchange, *X* sold the horses to *D*, a bona fide purchaser. Here the Court decided the facts showed an obtaining by false personation, which in 1854 was made statutory larceny, and therefore Section 2129, under the construction given it by the *Linn* case, was held applicable. After finding for the original owner, the

Wash. 548, 295 Pac. 487 (1931); Frye & Co. v. Boltman, 182 Wash. 447, 47 P. 2d 839 (1935); Hutson v. Walker, 37 Wn. 2d 12, 221 P. 2d 506 (1950); Richardson v. Seattle-First National Bank, 138 Wash. Dec. 298, 229 P. 2d 341 (1951).

[7] 114 Wash. 609, 196 Pac. 13 (1921).

[8] 182 Wash. 447, 47 P. 2d 839 (1935).

[9] 37 Wn. 2d 12, 221 P. 2d 506 (1950).

[10] 138 Wash. Dec. 298, 229 P. 2d 341 (1951).

[11] "It [*P*'s car] was voluntarily surrendered by respondent [*P*] who parted with possession of it with the intent to pass title to the wrongdoers, thus giving them all the indicia of ownership and the apparent right of disposal. Under such circumstances, in the absence of a statutory rule to the contrary, a *bona fide* purchaser from the vendee will be protected. It is but the enforcement of the old and familiar rule that, of two innocent persons, one of whom must suffer by the fraud of a third person, he who has put it in the power of such third person to commit the fraud must be the sufferer." Linn v. Reid, 114 Wash. 609 at 611, 196 Pac. 13 at 14 (1921).

[12] Wash. Laws 1854, c. 3, § 51.

[13] Wash. Laws 1854, c. 3, §§ 45, 46, 53, 54, 55.

[14] Wash. Laws 1909, c. 249, § 349.

[15] "To extend the intention of the legislators of 1854, as expressed in its statute, § 51, p. 84 (now Rem. Code, § 2129), and to engraft it into this new kind of larceny, which that legislature negatively refused to do, would be an unwarranted extension of the manifest intention of the legislature, under the guise of judicial interpretation." Linn v. Reid, 114 Wash. 609 at 617, 196 Pac. 13 at 16 (1921).

[16] Note 8 *supra*.

Court indicated by a gratuitous dictum that an owner might ". . . by acts amounting to an equitable estoppel place himself in a position where he cannot enforce his legal title," but concluded that there was ". . . nothing in the facts of this case which even approaches equitable estoppel."[17]

Section 2129 lay dormant until 1950 when *Hutson v. Walker*[18] came before the Court. Here *P* transferred his automobile, along with a bill of sale, certificate of registration, and the certificate of title indorsed in blank, to one Lee, who, representing himself to be a salesman for an automobile dealer, paid for the car with a forged check. That same day, Lee, having filled in the bill of sale with his name, resold the car to *D*, a bona fide purchaser. *P* sought to recover the car from *D* and on appeal a judgment for *D* was affirmed. Here the Court disposed of Section 2129 without difficulty, holding that since *P* had given Lee the certificate of title indorsed in blank, which was in violation of statutory procedure,[19] together with possession of the car, he was ". . . estopped by his conduct to question respondent's title to the car."[20] Thus, by using the above-quoted dictum in the *Frye* case, the Court justified the estoppel of the owner claiming under Section 2129 and supported its holding by citing with approval the doctrine of comparative innocence set forth in the *Linn* opinion.[21] It should be noted that the Court did not discuss whether the action of Lee was obtaining by false pretenses or obtaining by false personation or whether *P* intended to pass title to Lee.

The short, happy life of the *Hutson* rule was abruptly terminated by *Richardson v. Seattle-First National Bank*.[22] Here *P* sold her car to a man who gave his name as Thornton and represented himself to be an agent of a Seattle automobile dealer. This man handed *P* a check for the agreed price, with the name of the automobile dealer on it, and *P* gave him the car, together with the certificate of title, indorsed in blank. Through an intermediate party the car came into the hands of *D*, whom the Court treated as a bona fide purchaser.[23] In finding for the original owner the Court, taking cognizance of Section 2129, de-

[17] Id. at 450, 47 P. 2d at 840.
[18] Note 9 *supra*.
[19] REM. SUPP. 1947 § 6312-6.
[20] Hutson v. Walker, 37 Wn. 2d 12 at 18, 221 P. 2d 506 at 509.
[21] Note 11 *supra*.
[22] Note 10 *supra*.
[23] Olsen, the bona fide purchaser, had financed the purchase of the car with the Seattle-First National Bank, but by the time the case was tried the second time, Olsen had paid in full his obligation to the bank and the bank was dismissed as a party defendant. See page 7, appellant's brief.

clared that since the action of "Thornton" constituted obtaining by false personation the statute must prevail. The Court further stated that estoppel or the doctrine of comparative innocence would be available only where ". . . the owner parted with his title under circumstances which would not constitute larceny, as it was defined at the time of the enactment of Rem. Rev. Stat. 2129."[24] Furthermore, the Court felt compelled to overrule the point of estoppel in the *Hutson* case to the extent that it was in conflict with the *Richardson* opinion.[25]

The *Richardson* case being the Court's latest word on Section 2129, the current rule apparently is: If the worthless check transaction was an obtaining by false pretenses or any other act not amounting to statutory larceny in 1854, Section 2129 will not prevent an estoppel; but if the transaction involves false personation or other acts which were larceny in 1854, the bona fide purchaser cannot retain the goods.[26]

The prevailing judicial attitude favoring the bona fide purchaser probably is due to the feeling that his protection is essential to the free and unclogged transfer of goods in a commercial society. Extensive use of the doctrines of estoppel and comparative innocence to protect the bona fide purchaser attests to the truth of this observation, and cases protecting the bona fide purchaser are legion. The construction given Section 2129 in the *Linn* case and the facility with which the Court dismissed this statute in the *Hutson* case are further indications of the courts' solicitude for bona fide purchasers. This desire to afford protection to persons in this class is carried into the Uniform Sales Act by sections 23 and 24.[27]

Regardless of the language and intent of the Sales Act, most authorities agree[28] the present majority rule is that where goods are delivered upon the presentment of a worthless check no property interest passes

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[24] 138 Wash. Dec. 298 at 300, 229 P. 2d 341 at 343.

[25] *Ibid.*

[26] *But see* Keck v. Yakima Savings and Loan Association, 160 Wash. 430, 295 Pac. 483 (1931).

[27] REM. REV. STAT. § 5836-23(1), § 5836-24 [P.P.C. § 859-13(1), § 859-15].

[28] On the subject of worthless check transactions generally, see, VOLD, SALES 174 (1931); 2 WILLISTON, SALES (Rev. Ed. 1948) § 346; Vold, *Worthless Check Sales, "Substantially Simultaneous" and conflicting analyses* (1950); 1 THE HASTINGS JOURNAL 110; *Protection of Purchaser from One Who Acquires Goods by Giving Bad Check—Missouri Law,* 13 Mo. L. REV. 211 (1948); *Colling, Title to Goods Paid for with Worthless Check,* 15 So. CAL. L. REV. 340 (1942); McCullough, *Payment by Note or Acceptance—Whether Vendor may Recover Goods from Bona Fide Purchaser When Check in Payment Is Dishonored,* 2 CHI-KENT L. REV. 182 (1942); *Payment by Forged Check, Recovery of Goods by Seller from Bona Fide Purchaser,* 17 TENN. L. REV. 272 (1942); Markley, *Right to Reclaim Delivered Goods in a Cash Sale,* 26 DICKINSON L. REV. 277 (1932); *Effect of Payment by Check on Passage of Title,* 9 CALIF. L. REV. 78 (1920).

to the buyer and, therefore, the original owner may assert his title, even as against an innocent purchaser.[29] Such an analysis presumes the intent of the parties is for a technical cash sale[30] and flies in the face of the provisions of the Sales Act.[31] While the pre-Sales Act view was that absent contrary intent a technical cash sale is presumed, under the Sales Act the presumption is for an ordinary sale and that the property in the goods passes to the buyer when the contract is made.[32]

The majority rule has evoked considerable critical opposition, based on the proposition that while the intent of the parties may have been for the buyer to retain title until the check was cashed, such intent is not borne out by their conduct.[33] The minority reasons that the intent of the parties being to pass title at the time of the mutual transfer of the goods and the worthless check, the fraudulent buyer acquired a voidable title which becomes indefeasible upon a transfer of the goods to a bona fide purchaser.[34] Since in the absence of any worthless check problems the courts have been willing to follow the presumption of the Sales Act and find, in the absence of expressed intent, an ordinary sale, there seems to be no sound logical reason why an exception should be made in the worthless check cases.[35]

Even when the fraudulent buyer is found to have no title, most courts will find for the bona fide purchaser when the owner can be estopped from asserting his title.[36] Mere possession of the goods by the fraudulent buyer will not alone set up an estoppel.[37] Generally,

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[29] See 2 WILLISTON, SALES (Rev. Ed. 1948) § 346a, footnote 14.

[30] See VOLD, SALES 168 (1931); 31 A.L.R. 578; 54 A.L.R. 526; *But cf.* Goodwin v. Bear, 122 Wash. 49, 209 Pac. 1080 (1922).

[31] Uniform Sales Act, § 19(1), REM. REV. STAT. § 5836-19(1) [P.P.C. § 859-1]; See 2 WILLISTON, SALES (Rev. Ed. 1948) § 343; VOLD, SALES 176 (1931); Proposed final draft of the UNIFORM COMMERCIAL CODE, 2-401; For a discussion of the view that under § 19(1) of the Sales Act an ordinary sale is presumed unless a contrary intention affirmatively appears and the goods pass to the buyer when delivered and the check given for the purchase price, see Goodlett, *The Effect of Accepting a Worthless Check Where the Parties Contemplate a Cash Sale.* 28 KY. L.J. 322 (1940).

[32] REM. REV. STAT. § 5836-19(1) [P.P.C. § 859-5(1)].

[33] This situation has been called analogous to the seller extending to the buyer a short term of credit, see 38 YALE L.J. 1154 (1929); 15 So. CAL. L. REV. 340 at 346 (1942); 28 KY. L.J. 322 at 325 (1940), such buyer to have a voidable title which becomes indefeasible when goods pass to the bona fide purchaser. See 34 IOWA L. REV. 371 (1949) for a suggestion that the fraudulent buyer is actually a conditional vendee under an unrecorded conditional sale.

[34] Sullivan and Co. v. Wells, 89 F. Supp. 317 (D. C. Neb. 1950); Nelson v. Lewis, 143 Kan. 106, 53 P. 2d 813 (1936); Parr v. Helfrich, 108 Neb. 801, 189 N.W. 281 (1922). See 2 WILLISTON, *op. cit., supra* note 31, §§ 346a, 346b.

[35] 2 WILLISTON, *op. cit., supra* note 31 §§ 264, 343; Rockwood v. Green 179 Wash. 138, 36 P. 2d 261 (1934).

[36] UNIFORM SALES ACT § 23(1), REM. REV. STAT. § 5836-23(1) [P.P.C. § 859-5(1)].

[37] J. L. McClure Motor Co. v. McClain, 34 Ala. App. 614, 42 So. 2d 266 (1949);

there must be some apparent authority given by the seller to the fraudulent buyer to sell,[38] or more often this apparent authority is found when the seller transfers with the goods so-called "indicia of title"—usually documentary evidence that the possessor of the goods has authority to transfer them.[39] Courts frequently attempt to reinforce their use of estoppel by concurrently citing the doctrine of "comparative innocence," which finds its expression in the maxim that where there are two innocent persons, one of whom must suffer by the fraud of a third person, he who has put it in the power of such third person to commit the fraud must be the sufferer.[40]

Thus far, the Washington Court has not taken a clear position on whether a voidable title will pass in worthless check sales. A prior case on this subject[41] was decided before the passage of the Sales Act and is sometimes cited as placing Washington with those jurisdictions which hold that not even a voidable title passes in a worthless check transaction.[42] A careful reading of the opinion, however, will show this view to be in error.[43] As previously mentioned, the presumed intention of the parties under the Sales Act is for an ordinary sale and unless a contrary intention appears, "Where there is an unconditional contract to sell specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment, or the time of delivery, or both, be postponed."[44] The fact that the taking of the goods may have been wrongful, fraudulent and with a felonious intent is not crucial. The important question to ascertain is whether the taking was with the consent of the owner. As a general rule, where possession of a chattel has been obtained by theft or other criminal act which involves a taking without the owner's consent, a bona fide purchaser does not acquire any title as against the original owner.[45] This rule, however, does not apply

Eatonville State Bank v. Marshall, 170 Wash. 503, 17 P. 2d 14 (1932); *but see* Linn v. Reid, note 7 *supra* at 611, 196 Pac. 13 at 14 (1921).

[38] Bauer v. Commercial Credit Co., 163 Wash. 210, 300 Pac. 1049 (1931); *see* State Bank of Black Diamond v. Johnson 104 Wash. 550, 560, 177 Pac. 340, 343 (1918).

[39] Fisher v. Thumlert, 194 Wash. 70, 76 P. 2d 1018 (1938); for a collection of cases see 151 A.L.R. 690.

[40] Paulsell v. Peters, 9 Wn. 2d 599, 115 P. 2d 708 (1941); Van Norman v. Woodson, 182 Wash. 271, 46 P. 2d 1050 (1935); Kiley v. Bugge, 165 Wash. 677, 5 P. 2d 1038 (1931); Linn v. Reid, note 7 *supra;* Schwerter v. Hooker, 94 Wash. 642, 162 Pac. 981 (1917).

[41] Quality Shingle Co. v. Old Oregon Lumber and Shingle Co., 110 Wash. 60, 187 Pac. 705 (1920).

[42] 2 WILLISTON, *op. cit., supra,* note 31, § 346, footnote 14.

[43] See Ayer, *Washington Sales Act,* 2 WASH. L. REV. 145 at 150 (1927).

[44] REM. REV. STAT. § 5836-19(1) [P.P.C. § 859-5(1)].

[45] Lewis v. Kanters, 262 Mass. 275, 159 N.E. 617 (1928); Merinella v. Swartz, 123 Wash. 521, 212 Pac. 1052 (1923); 55 C.J. § 654.

where the owner, although induced to part with possession and title by a criminal act, does so voluntarily.[46] The fact that the owner is induced to sell by the fraud of the buyer makes the sale voidable but not void and the sale to the bona fide purchaser is not defeated because the fraudulent buyer assumed a false name or practiced any other deceit to induce the vendor to sell.[47]

If, then, the minority rule—the sounder rule analytically—is followed, the ordinary worthless check transaction would give a voidable title to such fraudulent buyer and Section 24 of the Sales Act would apply. This section states that "Where the seller of goods has a voidable title, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith, for value and without notice of the seller's defect of title."[48] Therefore, the very transaction which under Section 2129 is forbidden to divest the rights of the owner is sanctioned by the Sales Act, Section 24. The passage of the Sales Act would seem to render obsolete the Court's analysis in the *Linn* case. By construing Section 2129 in the light of the Sales Act, and using the better analysis, where the owner in return for a worthless check voluntarily parts with possession and intends to pass title to the one who hands over the check, the bona fide purchaser should prevail. If this approach is followed, Section 2129 would be limited to those cases where, because the taking was without the consent of the owner, not even a voidable title passes to the fraudulent intermediary.[49]

Even assuming that the Washington Court would prefer to stay with

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[46] Perkins v. Anderson, 65 Iowa 398, 21 N.W. 696 (1884); Martin v. Green, 117 Me. 138, 102 Atl. 977 (1918); Cochran v. Stewart, 21 Minn. 435 (1875); Ross v. Leuci, 85 N.Y.S. 2d 497 (1949); Phelps v. McQuade, 158 App. Div. 528, 143 N.Y.S. 822 (1913), *aff'd* 220 N.Y. 232, 115 N.E. 441 (1917); *see* Linn v. Reid, note 7 *supra* at 611, 196 Pac. 13 at 14 (1921); *see* 2 WILLISTON *op. cit., supra* note 31 § 625a.

[47] Edmunds v. Merchant's Transportation Co., 135 Mass. 283 (1883); see 26 COL. L. REV. 636 (1926); 11 CORNELL L. Q. 422 (1926).

[48] REM. REV. STAT. § 5836-24 [P.P.C. § 859-15].

[49] That this was the original intent of the 1854 legislators is suggested by an examination of the 1854 Session Laws. Larceny at common law was the obtaining of the possession of personal property by trespass in the taking and carrying away of same from the possession of another, with felonious intent to deprive him of his ownership in the goods. MILLER, CRIMINAL LAW § 109 (1934); 30 YALE L.J., 613 (1921). The rule of § 2129 has always applied to common law larceny but not to statutory larceny where there was a voluntary surrender of the goods and both title and possession were intended to pass. *See* Ross v. Leuci, 85 N.Y.S. 2d 497, 501 (1949). It is suggested that § 2129 (WASH. LAWS 1854, c. 3 § 51) was meant to be no more than a restatement of the common law, to apply to WASH. LAWS 1854 c. 3 §§ 45, 46 (which define common law larceny), but not to §§ 53 and 55 (which made obtaining by false personation and embezzlement, larceny). See Keck v. Yakima Savings and Loan Association, 160 Wash. 430, 295 Pac. 483 (1931); 11 Cornell L. Q. 422 (1926).

the majority and would refuse to allow even a voidable title to pass a worthless check sale, Section 23 of the Sales Act[50] will still limit Section 2129 insofar as it concerns a bona fide purchaser. The rule that there may be an estoppel against an owner where by his conduct he is precluded from denying the seller's authority to act has been recognized in Washington.[51] The effect of Section 23, when read in conjunction with Section 2129, would appear to be that the former adds a qualification to the latter, *viz.*, the original owner shall not be divested of any rights in his property unless he ". . . is by his conduct precluded from denying the seller's authority to sell."[52] The Court in the *Hutson* case recognized that the giving of the certificate of title to the car, indorsed in blank was such conduct as to raise an estoppel. The critical point is the act of the owner which raises the estoppel, i.e., giving the buyer apparent authority to sell by placing the certificate of title, signed in blank, as well as possession of the automobile in his hands.

An adoption of the above analysis under Section 24 would protect the bona fide purchaser of goods in worthless check transactions where the seller voluntarily gives up and intends to give up both possession of and title to the goods to the person confronting him. However, at least in the two most recent cases to come before the Court,[53] the fraudulent buyer, whatever his real or assumed name, claimed to be the authorized agent of a reputable automobile dealer. Only a remarkable imagination, it is submitted, would find under these circumstances that the owner intended both possession *and* title to pass to the fraudulent agent. Rather, it would seem, while the owner intended the agent to have possession, title was intended to go to the automobile dealer whom the "agent" claimed to represent. Thus, the argument based on Section 24 would not avail the bona fide purchaser in such cases. However, there is no reason why the bona fide purchaser should not recover under these facts by using Section 23 of the Sales Act if the owner gave the fraudulent agent such indicia of title as to be estopped from denying the agent's authority to sell. Section 2129 would then apply only where the owner was not estopped from denying the false agent's authority to sell.

Especially when the worthless check problem is related to motor vehicles does failure to consider Section 2129, as modified by the Sales

[50] REM. REV. STAT. § 5836-23(1) [P.P.C. § 859-13(1)].
[51] Fisher v. Thumlert, 194 Wash. 70, 76 P. 2d 1018 (1938).
[52] REM. REV. STAT. § 5836-23(1) [P.P.C. § 859-13(1)].
[53] Hutson v. Walker note 1 *supra;* Richardson v. Seattle-First National Bank note 1 *supra.*

Act, run counter to other established policies. In the *Hutson* case, the Court went to great lengths to spell out its reasons for estopping the owner from recovering his property. The major reason advanced was the owner's failure to comply with the motor vehicle ownership and registration code.[54] Failure to fill in the form on the back of the certificate of title and only indorsing it in blank was held to clothe the fraudulent agent with such indicia of title as to estop the seller from asserting his title against a bona fide purchaser. Reference was made to an analogous situation in *Merchants Rating and Adjusting Co. v. Skaug*,[55] where a mortgagee of an automobile who failed to comply with the statutory requirement of securing a new certificate of registration lost his lien as against an innocent purchaser of the car.

As to the purpose and scope of the motor vehicle registration act, the Washington statutes apparently fall into that class which do not clearly enough express intention to hold the certificates of registration and title as conclusive title instruments but which certificates are meant to serve as more than an aid to the enforcement of police regulations.[56] The results of the *Skaug* and *Hutson* cases indicate that while failure to comply with the motor vehicle registration statutes will affect the rights of third parties, the Court is not willing to construe the certificate of ownership as a conclusive title instrument. So long as this construction of the motor vehicle act is continued, in the ordinary case where the owner intends to pass title and possession to the buyer but fails to comply with the statutory procedure, the bona fide purchaser should recover, under either the passage of voidable title theory and Section 24 or the estoppel theory and Section 23. If, however, the certificate of title was by legislative or judicial action declared to be conclusive of title, it seems hardly possible that the theory of vesting voidable title in the fraudulent buyer would be valid.[57]

As to the *Hutson* and *Richardson* cases, while it is apparent that the bona fide purchaser in neither case should have recovered on any theory that the owner intended to pass title, Section 23 would appear

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[54] REM. SUPP. 1947 § 6312-6. The first paragraph of this section states, "(a) In the event of the sale or other transfer to a new registered owner of any vehicle for which a certificate of ownership and a certificate of license registration have been issued, the registered and legal owners shall endorse upon the back of the certificate of ownership an assignment thereof in form printed thereon, and deliver the same to the purchaser or transferee at the time of the delivery to him of the said vehicle."

[55] 4 Wn. 2d 46, 102 P. 2d 277 (1940).

[56] See Davis, *The Motor Vehicle Registration Act as a Limitation on the Chattel Mortgage Recording Act*, 15 WASH. L. REV. 182 (1940).

[57] See 2 BAYLOR L. REV. 97 (1949).

to apply in both instances. Considered alone, Section 2129 might control and the Court's use of the 1854 definitions of obtaining by false personation and obtaining by false pretenses plus its rejection of estoppel in the *Richardson* case might be valid. However, the doctrine of estoppel has now been sanctioned by statute in Section 23 and since failure to properly fill out the back of the certificate of title was held sufficient to estop the owner from asserting title in the *Hutson* case, the same doctrine should have been applied in the *Richardson* case.