

## CHAPTER 511

CHATTEL MORTGAGES, CONDITIONAL SALES CONTRACTS, AND SEED  
LOANS

## CHATTEL MORTGAGES

## 511.01 MORTGAGES, WHEN VOID.

In the case at bar the giving of a chattel mortgage in the usual form to secure a note after its due date was a qualified and unconditional acknowledgment, and tolled the statute of limitations so that it began to run from the date of such acknowledgment. *Reconstruction Finance Corp. v Osven*, 207 M 146, 290 NW 230.

A description in a recorded instrument is sufficient if it will enable third persons, aided by inquiries which the instrument itself reasonably suggests, to identify the property. The description of the property in the recorded instrument gave the model number only but failed to give the identifying serial number which was plainly stamped upon the furnace. One party's inefficiency or other deficiency may be tolerated but this party was not a party to the instrument and, in consequence, the insufficiency of the description in the instant case was such as to nullify the effect of the record of the instrument as constructive notice to the defendant. *McDonald v Read*, 210 M 232, 297 NW 739.

A chattel mortgage duly made and filed covering a large number of animals and "also so much of the mortgagor's hay, feed and forage as may be required in feeding the mortgaged animals" is sufficiently definite to cover the hay and feed on hand when the barn was destroyed by fire; and even under the rule of *ejusdem generis* the chattel mortgage also covered the hayrake, wheelbarrows, forks, and fly sprayer in question. *Subra v Harmer*, 212 M 190, 3 NW(2d) 101.

The description in a chattel mortgage first enumerated several head of live stock and then numerous items of farm implements, followed by the following language: "together with all increase and the increase from the increase of the above described live stock, and all additions, betterments and repairs made to and upon the personal property hereinbefore described." This did not include personal property subsequently acquired by the mortgagor. *American State Bank v Boyle*, 212 M 293, 4 NW(2d) 108.

A description of the real estate in a crop mortgage is sufficient if it is such that a prudent, disinterested person, aided and directed by such inquiries as the mortgage suggests, is able to identify the real estate. *State Bank v Dixon*, 214 M 39, 7 NW(2d) 351.

A chattel mortgagor in possession and having unconditional authority to sell can transfer good title as against the mortgagee to a subsequent purchaser for value, even though the mortgage was recorded. In the instant case the automobile in question was covered by a mortgage given by the secondhand car dealer to the plaintiff bank and the dealer was in possession of the car and had permission from the bank to sell in the usual course of business. *Pioneer Nat'l Bank v Johnson*, 215 M 331, 9 NW(2d) 760.

Delay in recording a chattel mortgage invalidates the mortgage only against creditors who have, prior to the filing thereof, acquired a lien by attachment or execution on the mortgaged property. *Bradley v Robie*, 266 F. 884.

Filing as constructive notice; chattel mortgage on unplanted crops. 3 MLR 194.

Uniform fraudulent conveyance act. 7 MLR 458, 543.

Status of trustee in bankruptcy. 9 MLR 55; 12 MLR 387.

Is an agreement of party to repurchase a sale or a mortgage? 11 MLR 475.

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Bankruptcy; preference. 12 MLR 378, 387.

Presumption of fraud through possession. 12 MLR 408.

Filing of defectively executed instrument as constructive notice. 15 MLR 235.

Meaning of possession. 16 MLR 611.

Rights to assignee of contract and conditional sales contract against subsequent bona fide purchaser from original vendor. 16 MLR 689.

Conditional sales act. 16 MLR 697.

Trust receipts. 17 MLR 790, 801.

Priority as between a landlord's lien for rent and a mortgage on the tenant's chattels. 20 MLR 436.

Effect of recordation when a bona fide purchaser for value buys from a conditional vendee or mortgage dealer. 23 MLR 846.

Purchasers at execution sale. 24 MLR 828, 835.

Fraudulent conveyances of chattels; chattel mortgages; conditional sales; presumptions of fraud. 24 MLR 832.

Execution sales; chattel mortgages. 24 MLR 836.

Mortgagor in possession with authority to sell; effect of recording act. 30 MLR 305.

## **511.02 COPY OF MORTGAGE TO MORTGAGOR.**

Delivery of copy of chattel mortgage to mortgagor. 15 MLR 235.

## **511.03. MORTGAGE TO CONTAIN RECEIPT OF MORTGAGOR.**

Amended by L. 1947 c. 258 s. 1.

A receipt incorporated in the body of the mortgage does not meet the requirements of the statute. A separate receipt for the copy should appear following the signature, names of witnesses, and the acknowledgment. OAG Nov. 8, 1946 (29-a-23).

Receipt for chattel mortgage copy may be contained in the body of the mortgage, or endorsed thereon, or attached thereto. OAG April 16, 1947 (373-B-5).

## **511.04 FILING.**

Chattel mortgage and conditional sales; presumption of fraud; recording act. 24 MLR 832.

## **511.05 DUTIES OF RECORDING OFFICER; FEE.**

Chattel mortgage filed but not indexed. 2 MLR 386.

## **511.06 INDEX; NOTICE; LIEN.**

Plaintiff sold a threshing machine to Muntean taking a chattel mortgage thereon. The machine was on Muntean's farm two weeks before the sale was completed and the chattel mortgage given, and while the machine was on the Muntean farm and before the sale Muntean included the threshing machine along with other numerous items of personal property in a chattel mortgage given to Brewer to secure a past due debt. The trial court properly held that Muntean's title to the machine at the time of giving the mortgage to Brewer was subject to plaintiff's purchase money mortgage and consequently plaintiff's mortgage was superior to that of the defendant. *Schnirring v Stubbe*, 177 M 441, 225 NW 389.

The giving of a bill of sale of part of mortgaged chattels by the mortgagor is sufficient consideration for the mortgagee's release, or promise to release, the rest of the mortgaged property. *Central States Co. v Boettcher*, 180 M 6, 230 NW 120.

The evidence shows conclusively that plaintiff bank, the mortgagee, by authorizing the sale of the property by the mortgagor to the defendants, the defendants

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being good faith purchasers, and acceptance on the part of the bank of a part of the proceeds of the sale of the mortgaged property, ratified the sale, and is estopped from asserting that the sale was invalid. The title of the purchaser is, therefore, good. *First & Farmers Bank v Crosby*, 191 M 566, 256 NW 315.

A conditional sales contract of ambulatory property is to be filed in the county where the parties have fixed its situs. *Miller Motor Co. v Jaax*, 193 M 85, 257 NW 653.

The mortgagee waives his lien by consenting to a sale of the mortgaged property by the mortgagor; the mortgage lien does not follow the proceeds; and the purchaser takes title free from the mortgage. In the instant case where some of the cows included in a mortgage were sold with the consent of the mortgagee, and others purchased to replace them, the mortgage did not extend to those purchased as against the creditors in bankruptcy of the mortgagor some of whom were the sellers of such cows. *Gt. Northern Bank v Ryan*, 292 F. 10.

Index as part of the chattel record. 2 MLR 386.

Recording in realty records of mortgage covering realty and personalty as notice as to personalty. 5 MLR 144.

Purchaser at chattel mortgage sale. 24 MLR 828, 832, 836.

## 511.07 MORTGAGE OF EXEMPT PROPERTY; SPOUSES MUST JOIN.

Rights of a pledgor on transfer of pledge. 6 MLR 173.

## 511.10 FORECLOSURE, WHEN AND WHERE MADE.

Where debtor and creditor having an account agree upon the amount due and then make a new contract for the payment of that amount intended to supersede the prior contracts, and the entire transaction is supported by a new consideration, it is valid and binding and operates as an accord and satisfaction of such prior contracts; and where in an action of replevin under a chattel mortgage given as part of such new contract the making of the contract and the default are admitted a verdict was properly directed for the plaintiff. *Trovaaten v Hanson*, 175 M 357, 221 NW 238.

A trustee in bankruptcy who brings suit in the state court alleging conversion of property of the bankrupt estate by reason of an invalid foreclosure of chattel mortgage is bound by the measure of damages in the state jurisdiction and is entitled to recover only the difference between the value of the property and the amount of the lien. Since the property here alleged to have been converted was worth less than the amounts of the chattel mortgage liens, judgments were rightly entered for defendants. *Ingalls v First Nat'l Bank*, 194 M 332, 260 NW 302.

Enforcement of foreign recorded chattel mortgage. 6 MLR 153.

## 511.11 NOTICE AND SALE.

The trial court accordingly ruled that the transaction evidenced by a trust receipt included by plaintiff to defendant, and the acceptance by the plaintiff of a time draft to defendant's order, was a chattel mortgage upon the automobiles named in the trust receipt. The recital in the trust receipt does not estop plaintiff from proving it was given as security; hence a chattel mortgage. A sale of the automobiles by defendant without a foreclosure was a conversion. *McLeod v Commercial Credit*, 187 M 452, 246 NW 17.

See, *Great Northern Bank v Ryan*, 292 F. 10, under section 511.06.

## 511.12 REPORT OF SALE; FILING.

Bankruptcy; rights of secured creditors; foreclosure of chattel mortgage. 17 MLR 47, 81.

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## **511.16 MORTGAGOR'S INTEREST SUBJECT TO GARNISHMENT, ATTACHMENT, OR EXECUTION.**

Election of remedies; effect of levy by mortgagee on mortgaged property. 18 MLR 353.

Comparison between chattel mortgages and conditional sales contracts. 24 MLR 805, 830, 832.

Attachment and execution of personal property including negotiable instruments when in the hands of a pledgee-mortgagee. 30 MLR 616, 621.

## **511.17 MORTGAGE OF CROPS.**

Lien on cropping contract on cropper's share of the grain is not security generally for payment of damages arising from the cropper's breach of contract. *Fitzgerald v Kaiser*, 194 M 316, 260 NW 294.

Where an alteration of a chattel mortgage is made without any intent to defraud but merely to correct an error in drawing the instrument so as to make the instrument conform to the undoubted intention of the parties, it is not such an alteration as will avoid the instrument. *Hannah v State Bank*, 195 M 54, 261 NW 583.

L. 1947, c. 265, does not authorize the register of deeds to destroy all chattel mortgages in his file which have been filed in his office for a period of more than ten years. OAG April 25, 1947 (373-B-18-2).

See, *Subra v Harmer*, 212 M 190, 3 NW(2d) 101, under section 511.01.

See, *State Bank v Dixon*, 214 M 39, 7 NW(2d) 351, under section 511.01.

Assignability of future book accounts. 2 MLR 40.

Chattel mortgages on after-acquired property. 2 MLR 38.

Contracts to farm on shares. 2 MLR 47.

Chattel mortgage on unplanted crops. 3 MLR 197.

## CONDITIONAL SALES

## **511.18 CONDITIONAL SALES CONTRACTS.**

In the instant case under the conditional sale contract title to the furnace remained in the vendor even though annexed to the real estate. Its unconditional resale by the purchaser constituted conversion. *Pennig v Schmitz*, 189 M 262, 249 NW 39.

A conditional sales contract of ambulatory property is to be filed in the county where the parties have fixed its situs. *Miller Motor Co. v Jaax*, 193 M 85, 257 NW 653.

A present holding and chattel mortgage on a motor truck which by its terms covered after-acquired property attached to the truck, takes no title to tires and tubes thereafter purchased by the mortgagor and attached to the truck as against a conditional vendor of the tires and tubes who reserved the title thereto. *Goodrich v A & A Credit System*, 200 M 265, 274 NW 117.

In a replevin action to recover possession of an automobile because of a default in payments under a conditional sales contract, defendants failed to establish a defense of usury in the making of the contract by proof that the consideration agreed upon between the parties at the time the contract was entered into was less than that provided for in the contract, it conclusively appearing from the evidence that the amount contended for by the defendants was the correct sale price and did not include an excessive sum as interest. *Minneapolis Discount Co. v Croff*, 201 M 111, 275 NW 511.

Registration of a motor vehicle does not establish and determine the title to a vehicle registered, and parol evidence is admissible to show that the title is different from that appearing on the registration. Section 511.18, providing that conditional sales contract shall be void as to the creditors of the vendee unless filed as in the case of a chattel mortgage, does not apply to a bailment. *Bofton v Owens*, 201 M 162, 275 NW 855.

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The seller's suit for the price under a conditional sales contract is not inconsistent with his reserve title and right to repossess upon the buyer's default; and hence it is not such an election of remedies as to bar a subsequent exercise of the right of possession. *Midland Loan v Osterberg*, 201 M 210, 275 NW 681.

A conditional seller who obtained possession of the conditionally sold property is not barred from an action of foreclosure when he states in the replevin complaint that the purpose of recovery is to enable him to foreclose his seller's lien. In such a situation no question of election of remedies is presented unless possession is required pursuant to the remedy of foreclosure. As an incident to the foreclosure procedure the conditional seller may recover a deficiency judgment for the balance of the obligation. *Nat'l Cash Register Co. v Ness*, 204 M 148, 282 NW 827.

Despite the fact that the conditional sales contract herein involved may have been within the statute of frauds and therefore required to be in writing, the time for performance could be extended by an oral agreement entered into at a time subsequent to the reduction of the contract to writing. *Hafz v Midland Loan*, 205 M 76, 287 NW 677.

The rights of a good faith purchaser over the registered automobile owner are subject to those of the assignee of a prior and duly recorded conditional sale contract where there is no evidence to impugn the good faith of the conditional sale contract. *Slawik v Christensen*, 209 M 428, 296 NW 496.

The description of an oil furnace in a recorded instrument in the nature of a conditional sale contract was by trade name without mention of factory serial number. The furnace was purchased by defendant from the retail stock on display by the conditional vendee. Insufficiency of description was such as to nullify the effect of the record of the instrument as constructive notice to the defendant. *McDonald v Read*, 210 M 232, 297 NW 739.

Where conditional sales contract under which plaintiff undertook to purchase the truck was usurious, the plaintiff was relieved of all obligations thereunder and was entitled to the return of all securities pledged by and for the payment of the truck. *Seebold v Eustermann*, 216 M 566, 13 NW(2d) 739.

Where in an action on conditional sale note covering the purchase price of baby chicks defendant filed a counter-claim for breach of warranty in sale of the baby chicks, the evidence supported the verdict as to special damages resulting to defendant from loss of production of eggs by the chicks purchased. *Lanesboro Produce Co. v Forthun*, 218 M 377, 16 NW(2d) 326.

Property held by a bankrupt in Minnesota under a contract of conditional sale, although unrecorded, may be reclaimed by the seller, the failure to record rendering the contract voidable under the state statute only as against lien creditors. *Monitor Drill v Mercer*, 163 F. 943.

The so-called "chattel note" (*Miller-David*, No. 1072½) is in fact a conditional sales contract and subject to all the provisions of the conditional sales contract laws. OAG Nov. 8, 1946 (29-a-23).

The exclusive method for satisfaction of a lien is as provided in the statute and the register of deeds must conform to the law and insist that chattel mortgages be satisfied as the law prescribes. 1942 OAG 204, Dec. 22, 1942 (373-B-5).

Conflict of laws; recording conditional sales contracts. 5 MLR 310.

Bankruptcy law as applicable to liens. 9 MLR 55.

Fixtures, title as between owner of realty and seller of chattel under conditional sale contract. 11 MLR 667.

Interest of conditional buyer of personal property; is it attachable. 13 MLR 247.

Rights of assignee of conditional sales contract against subsequent bona fide purchaser from the original vendor. 16 MLR 689.

Conditional sales; recording acts. 16 MLR 696.

Foreclosure of lien. 17 MLR 66.

Remedies of conditional seller upon buyer's default. 17 MLR 66.

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Trust receipts standing alone. 17 MLR 790, 827.

Law governing conditional buyer's right of redemption. 18 MLR 429, 474.

Bankruptcy; conditional seller's right against buyer who reacquires the property after discharge in bankruptcy. 18 MLR 586.

Rights of seller retaining title to or lien on chattels annexed to realty as against third persons. 18 MLR 812.

Election of remedies by conditional seller. 22 MLR 439.

Bankruptcy; conditional sales; recording statutes. 24 MLR 101.

Execution sale, unrecorded conditional sales contracts. 24 MLR 805, 828.

Chattel mortgage and conditional sales; presumption of fraud; recording act. 24 MLR 832.

Fraudulent conveyance of chattels. 24 MLR 848.

Assignment of conditional sales contract and note. 28 MLR 413.

Chattel mortgage; mortgagor in possession with authority to sell; effect of recording act and analogy with decisions under section 513.12. 30 MLR 305.

## 511.19 RETAKING OF POSSESSION.

Upon default in payment a conditional seller may repossess the property or may proceed by suit and obtain a judgment for the purchase price, or may foreclose the lien. *Nat'l Cash Register v Ness*, 204 M 148, 282 NW 827.

In a conditional buyer's action against the assignee of the conditional sales contract for conversion of the automobile, it was not error to exclude the evidence tending to establish actual costs of the automobile at the time of the sale because the sale was seven months prior to the conversion. The original value at the time of the sale was too remote to establish the market value at the time of the conversion. *Hafiz v Midland Loan*, 206 M 76, 287 NW 677.

Since courts look to the substance and effect of transaction claimed to be usurious, there is no shift or device on the part of the lender to evade the law under or behind which the court will not look to ascertain the real nature and object of the transaction. *Midland Loan v Lorentz*, 209 M 278, 296 NW 911.

A gratuitous bailee is liable for conversion if he intentionally removes or secretes the property. *Borg v Reiling*, 213 M 539, 7 NW(2d) 310.

See, *Seebold v Eustermann*, 216 M 566, 13 NW(2d) 739, noted under section 511.18.

The description of the refrigerator by its model and serial number in a conditional sales contract was not so defective as to prevent the record of the contract from operating as "constructive notice" to the conditional buyer's trustee in bankruptcy. *Miller v McGray Co.* 130 F(2d) 875.

Election of remedies; attachments for past due installments as bar to recovery of property. 3 MLR 101.

Retaking by vendor; right of vendee to recover payments made. 5 MLR 384.

Remedies of conditional seller on buyer's default. 17 MLR 71.

Buyer's rights after repossession regarding damages to property. 17 MLR 103.

What law governs the conditional buyer's right of redemption. 18 MLR 429.

Conditional buyer's rights after default. 19 MLR 131.

Remedies of conditional seller upon buyer's default; manner of recovering property. 19 MLR 602, 714.

Remedies of conditional seller upon buyer's default; foreclosure of lien. 23 MLR 699.

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## FILINGS

### **511.20 REGISTER OF DEEDS TO ACCEPT FILINGS; NOTICE; EXCEPTIONS; CONDITIONAL SALES.**

See, McDonald v Read, 210 M 232, 297 NW 739, noted under section 511.18.

Recording the conditional sales contracts. 5 MLR 307.

Automobiles; filing of conditional sales contract. 6 MLR 406.

Recordation in fictitious name. 9 MLR 673.

Conflict of laws; chattel mortgages; doctrine of reciprocity. 13 MLR 724.

Defectively executed instruments; filing as constructive notice. 15 MLR 235.

Recording chattel mortgage on fixture as constructive notice to subsequent mortgagee or purchaser of realty. 15 MLR 242.

Trust receipts; tripartite or bipartite. 17 MLR 790.

Bona fide purchasers for value from a conditional vendee of mortgage dealer. 23 MLR 846.

Constitutionality of statutory requirement of recordation in state to which chattel is removed without consent of mortgagee. 23 MLR 820.

### **511.21 FILING; FEES.**

See, Miller Motor Co. v Jaax, 193 M 85, 257 NW 653, under section 511.06.

When a chattel mortgage is filed in the office of the register of deeds, and said instrument bears on its back an assignment, two instruments are filed, and even if both are on the same piece of paper a fee of twenty-five cents on each instrument must be paid. OAG June 30, 1946 (373-B-10-C).

### **511.22 INDEX TO BE KEPT.**

Chattel mortgage filed but not indexed. 2 MLR 386.

Recording in realty records of mortgage covering realty and personalty as notice as to the personalty. 5 MLR 143.

### **511.23 MUNICIPAL CLERK TO DELIVER DOCUMENTS TO REGISTER OF DEEDS.**

Unless made in good faith, sale without immediate change of possession is presumed to be fraudulent as against the vendor's creditors. Internat'l Truck v Burns, 175 M 157, 220 NW 560.

### **511.24 FEES FOR DELIVERING DOCUMENTS.**

Recording chattel mortgage on fixtures as constructive notice as to subsequent mortgagee or purchaser of realty. 15 MLR 242.

### **511.26 APPLICATION.**

Except in cities of the first class, and certain counties, conditional sales contracts must be filed in the county where the property covered has a fixed situs. Good v Brown, 175 M 354, 221 NW 239.

### **511.261 DEFINITIONS.**

HISTORY. 1947 c. 328 s. 1.

### **511.262 CONVEYANCE AFFECTING TITLE TO CIVIL AIRCRAFT; FILING WITH FEDERAL AGENCY.**

HISTORY. 1947 c. 328 s. 2.

**511.263 FORECLOSURE OF CANCELATION.**

HISTORY. 1947 c. 328 s. 3.

**PLEDGES****511.28 RECORD PROCEEDINGS OF SALE OF PLEDGED PROPERTY.**

The defendant had a cause of action for conversion. The acceptance of the bonds in reliance upon plaintiff's promise instead of prosecuting his cause of action was sufficient consideration for the promise. This transaction was an original undertaking. It was not one to respond for the debt of another and hence did not come within the statute of frauds. *Wigdale v Anderson*, 193 M 384, 258 NW 726.

A pledge is a bailment of personal property as surety for a debt or other obligation; and the difference between a chattel mortgage and a pledge is that a defeasible title passes by the mortgage while only possession passes by the pledge. *Thoen v First Nat'l*, 199 M 47, 271 NW 111.

If a pledgor effectually affirms an unauthorized sale by the pledgee to himself he affirms it as an entirety. His only right then is to have credited on his debt the amount realized from the sale with payment to him of the surplus, if any; but if an unauthorized sale by the pledgee to himself is disaffirmed, he remaining in possession and control of the pledged property, the contract of pledge remains in force and there is no conversion. *Erickson v Midland National*, 205 M 224, 285 NW 611.

The pledgee of a chose in action under the extreme circumstances of this case indicating that loss to all concerned would have resulted if it had not accepted the exchange of securities provided for by the reorganization in bankruptcy of the debtor, properly accepted the exchange as a compromise where, as here, the procedure resulting in the exchange was participated in by the representatives of the pledgor's estate without objection either to procedure or result. *First & Amer. Bank v Whiteside*, 207 M 537, 292 NW 770.

If the property involved was pledged to plaintiff, his conduct as admitted in his cross-examination is entirely inconsistent with his claim that he did not relinquish possession to the pledgor, and a verdict was properly directed against the plaintiff. *Goembel v Heesch*, 212 M 424, 4 NW(2d) 104.

See, *Amer. State Bank v Boyle*, 212 M 293, 4 NW(2d) 108, under section 511.01.

The rights of a pledgor on transfers of a pledge. 6 MLR 173.

**SEED GRAIN LOANS****511.29 SEED GRAIN LOANS; AGREEMENT; CONTRACT.**

In an action by the state to recover on a seed grain note the defendant is not prevented from asserting that the sale was induced by fraudulent representations of the state's representative, and he may recoup in damages suffered as a result of the misrepresentation. *State v Bucholz*, 169 M 226, 210 NW 1096.

**511.30 SEED GRAIN CONTRACTS TO BE FILED WITH THE REGISTER OF DEEDS; FILING; DURATION OF LIEN.**

S. owned a seed-grain note, which was a lien upon certain grain raised from the seed furnished by him, and described in the seed-grain note. After default in the payment of the note, S. brought suit against E., alleging in his complaint that he was the owner of the grain so raised, and that E. had wrongfully converted the same. The trial court, against the objection of E., permitted S. to introduce in evidence the seed-grain note, and default in its payment, as sole proof of S.'s ownership therein. It was held as error that a seed-grain note is not a conditional sale of property therein described; that default in the payment of such a note does not, of itself, divest the title of the maker of the note to the grain mentioned in the note; and that the admitted proof of ownership of the grain constituted a variance between it and the allegations of ownership set forth in the complaint, and therefore inadmissible under the allegation in the complaint. *Scofield v National Elevator Co.* 64 M 527, 67 NW 645.