

Jim's Perspective...

Purchased Heifers

The insured “purchased” 6 heifers from another farmer. There was no written agreement between the farmers regarding this sale (which is not unusual!). The heifers were delivered to the insured with the understanding that he would pay for them at a later date. One of the heifers turned out to be very wild. The insured called the farmer that sold the heifers and the farmer agreed that the heifer could be returned. In the process of trying to load the wild heifer, the insured ran into it with his ATV and broke its leg. The heifer was subsequently destroyed.

The farm liability coverage excludes coverage for property damage to property in the care of the insured. However, the liability coverage does provide limited coverage for property damage (caused by the insured) to property owned by others. There is an exclusion under this coverage for property damage caused by an automobile owned or used by the insured, but since this involved an ATV, the exclusion does not apply. Since the insured had not yet paid for the heifers, is he not yet the owner of the animals and therefore the “damage to property of others” coverage would apply?

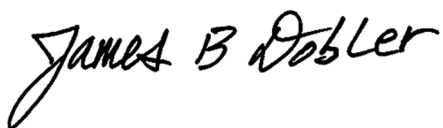
According to the Nebraska Uniform Commercial Code, the insured is the owner of the heifers. Nebraska law, section 2-401(2) provides:

Unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place.

This law has been specifically applied to the sale of cattle. In Meyers v. Columbus Sales Pavilion, Inc., 575 F. Supp. 805 (D. Neb. 1983), the Federal District Court was faced with the issue of deciding who had title to 145 head of cattle that had been sold by Meyers to another individual, who, in turn, sold the cattle to the Columbus sales barn. There was no express agreement between Meyers and his buyer regarding title to the cattle, and the evidence showed that the buyer had not yet paid Meyers for the cattle even after the Columbus sales barn took possession of the animals. The Court said:

With respect to the transaction here, title to the 145 head of cattle passed to the buyer at the time Meyers delivered them. Any interest Meyers retained could amount to no more than a security interest, provided there was no agreement by the parties, either expressly or in the course of conduct, that altered the result. The facts as stipulated and Meyers' deposition leave no hint that there was any agreement or course of dealing requiring a contrary result.

Ownership of cattle, and an insurable interest in cattle, can occur upon delivery of the cattle to the buyer. In the above example, the “damage to property of others” coverage does not apply.



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Questions or Comments? Please email jbdobler@outlook.com