

**CIRIACO LANDA, PLAINTIFF-APPELLANT, VS. FRANCISCO TOBIAS,  
MUNICIPAL MAYOR; EMILIANO DEL CAMPO, MUNICIPAL  
TREASURER; REGIO B. SUBONG, CHIEF OF POLICE; JUANITO  
PECATE AND JUANITO ...**

*G.R. No. L-24490. May 29, 1968*

Ponente: CONCEPCION, C. J.

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**CONCEPCION, C. J.:**

From an order of the Court of First Instance of Iloilo dismissing the complaint in this case, plaintiff has come directly to the Supreme Court, upon the ground that only questions of law would be raised in the appeal.

On June 23, 1962, defendants Juanito Pecate and Juanito Alfaro, members of the police force of Cabatuan, Iloilo, pur-ported to act pursuant to section 538 of the Revised Administrative Code, seized from plaintiff Ciriaco Landa a carabao, for which he produced a certificate of ownership in the name of Pantaleon Elvas. Said peace officers turned the carabao over to the municipal treasurer of Cabatuan, defendant Emiliano del Campo, who, on July 25, 1962, upon the authority of section 540 of said Code, sold the animal at public auction, which was duly approved by the Provincial Board on July 26, 1963. In an affidavit dated June 25, 1962, Landa tried to explain that he had acquired the carabao, by barter with an older carabao, from Marcelino Mayormente, who, on August 1, 1962, was charged, in the Justice of the Peace Court of Cabatuan, with swindling; but he has not been apprehended up to the present.

On or about April 16, 1963, Landa commenced in said court, the present action against Francisco Tobias, the Municipal Mayor of Cabatuan, its Municipal Treasurer, Emiliano del Campo, its Chief of Police, Regio B. Subong, and the aforementioned policemen, Juanito Pecate and Juanito Alfaro, for the recovery of damages with costs, upon the ground that he (plaintiff) had been wrongfully deprived of the possession of the carabao above referred to. In their answer, the defendants alleged, inter alia, that the acts complained of had been performed by them in accordance with law.

Said court having, in due course, rendered judgment in favor of the defendants, plaintiff appealed to the Court of First Instance of Iloilo, in which the parties submitted a partial stipulation of facts. Later on, after the presentation of plaintiff's evidence, which consisted of his testimony and some exhibits, the defendants moved to dismiss the case, which the Court of First Instance granted. Plaintiff's subsequent motion for new trial having been denied, he interposed the present appeal.

Plaintiff maintains that the lower court erred in holding that he had no title to the carabao, for non-compliance, on his part, with the provisions of the Revised Administrative Code, requiring the registration of cattle, prescribing the procedure for the transfer thereof, regulating amendments to certificates of ownership, and establishing the necessity of registration and issuance of a certificate of transfer in order that the same may be valid. He invokes the provision of the Civil Code, governing contracts in general, to the effect that "contracts shall be obligatory in whatever form they may have been entered into provided all essential requisites for their validity are present." [1]

In addition, to the essential requi-sites specified in the Civil Code, the Revised Administrative Code prescribes, however, another requisite, as regards the transfer of title to cattle, namely, the registration of said transfer and the issuance to the transferee of the corresponding certificate of transfer,[2] neither of which has been proven in the case at bar.

Although plaintiff claimed to have the aforementioned certificate of transfer, but he did not produce the same. In fact, plaintiff could not possibly have such certificate, for the carabao was allegedly conveyed to him by Marcelino Mayormente, whereas the registered owner is Pantaleon Elvas - and plaintiff knew this fact - and there is no competent proof that Elvas had ever assigned the animal to Mayormente. Again, the complaint for swindling filed against Mayormente indicates that the carabao did not belong to him. Regardless of the aforementioned provisions of the Revised Administrative Code, the title to the carabao could not have passed, therefore, to Landa, in consequence of his alleged transaction with Mayormente, who had no such title. It may not be amiss to note that Mayormente might be no more than a figment of the imagination, for he has neither taken the witness stand nor been found.

Apart from this, the certificate of ownership, Exhibit A, produced by the plaintiff to patrolmen Pecate and Alfaro, was not in plaintiff's name and admittedly bore signs of tampering. Although the blank spaces in said printed form were filled with words and figures written in indelible pencil, the spaces for the year of its issuance and the age of the animal described therein have traces of erasures and the figures 59 and 3, respectively, are written thereon in ink, to indicate that the certificate had been issued in 1959 and that said carabao was then three (3) years of age. The original record of said document shows that it was issued in 1961 and the age of said carabao was then one year and a half.

Under these circumstances, it is clear that the policemen had reasonable grounds to suspect that plaintiff's possession of the carabao was unlawful, as well as to seize the animal and de-liver the same to the municipal treasurer as provided in Section 538 of the Revised Administrative Code.[3] Pursuant thereto to Section 540 of the same Code,[4] said municipal treasurer had, not only the authority, but, also, the "duty" to issue, post and cause to be served a notice of the seizure or taking of said animal, and, if the owners thereof "fail to present themselves within the time specified in the notice and prove title to the animals taken or seized as aforesaid, " notice of such fact shall be given by said officer to the provincial board, "which shall order said animals to be sold at public auction, " after giving the notice prescribed in said legal provision. The "purchaser at such sale shall" - in the language of Section 540 - "receive a good and indefeasible title to the animal sold."

Even if plaintiff were hypothetically the true owner of the carabao in question, his only remedy was, accordingly, to claim it before the municipal treasurer and prove to the latter his (plaintiff's) title thereto, either prior to or at the time of the auction sale. Not having done so, plaintiff can not now make such claim judicially and try to prove his title - which, after all, he has failed to establish -much less seek indemnity from the public officers who, by reason of their official duties, had a hand in the seizure and sale of the carabao.

Considering the stipulation of the parties herein, to the effect that said sale had been "duly approved by the Provincial Board, " apart from the legal presumption "that official duty has been regularly performed,"[5] we must assume that defendants herein had complied with the requirements of the legal provisions above referred to, and, consequently, they can not be held liable for the aforesaid seizure and sale.

Plaintiff further alleges that the lower court erred in not de-claring that the public auction of the carabao in question as "astray" is against the law, because the animal was taken or seized from him, not found astray. This pretense is groundless. It is not borne out by paragraph 3 of the partial stipulation of facts cited by him in support thereof. The sale at public auction was held pursuant to the aforementioned Section 540, captioned "Sale of

unclaimed" - not astray - "animal, " although referring to "all estray and all animals recovered from thieves or taken by peace officers from persons unlawfully or reasonably suspected of being unlawfully in possession of the same" - which are the subject-matter of Section 538 - the owners of which "fail to present themselves within the time fixed in the notice and prove title to the animals taken or seized as aforesaid. " Such is, precisely, the situation obtaining in the case at bar.

WHEREFORE, the order appealed from is hereby affirmed, with costs against plaintiff-appellant, Ciriaco Landa.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

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[1] Article 1356.

[2] See Section 529 of the Revised Administrative Code.

[3] "SEC. 538. Impounding of estrays and stolen cattle. - All estrays and all animals recovered from thieves or taken by peace officers from persons unlawfully or reasonably suspected of being unlawfully in the possession of the same, shall be delivered to the treasurer of the municipality where found, and it shall thereupon become the duty of such treasurer properly to care for and maintain such animals and to post for at least ten consecutive days at the door of the municipal building in the municipality holding the animals and to forward immediately to the recorder of the provincial board, written notices in Spanish and in the local dialects of the finding of such estrays or of the seizure or taking of the animals delivered to the municipal treasurer, together with the class, sex, age, brands, knots or radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the estrays or of the animals seized or taken from persons not entitled to the possession hereof, and notifying owners of such animals to present themselves within twenty days after date to the municipality and establish title thereto. It shall be the duty of the provincial secretary to send copies of the notice herein provided for the municipal mayors of the province concerned, whose duty it shall be to order said notice published by bandillo in all the barrios of their respective municipalities once a week during said period of twenty days.

[4] [2] "SEC. 540. Sale of unclaimed animal. - Should the owners of such animals fail to present themselves within the time fixed in the notice and prove title to the animals taken or seized as aforesaid, immediate notice of that fact shall be given by the municipal treasurer to the provincial board of the province, which shall order said animals to be sold at public auction and shall give notice of the sale at least fifteen days before the date of sale by posting notice thereof at the door of the provincial building and at the door of the municipal building where such animals are held, and by bandillo in the barrios of said municipality. The notice of the sale shall contain a statement of the class, sex, age, brands, knots of radiated hair commonly known as remolinos or cowlicks, and other marks of identification of the animals to be sold, the place where found or seized, and the date, hour, and place of sale. The place of sale shall be fixed, in the discretion of the provincial board, either at the provincial capital or in the municipality where such animals are held.

"Animals ordered to be sold by the provincial board in accordance with the provisions of this section shall be sold for cash to the highest and best bidder therefor at public auction by verbal bidding, and the purchaser at such sale shall receive a good and indefeasible title to the animal sold: Provided, however, That notwithstanding the provisions of the preceding sections, the owner appears at or during the time of the auction and proves his title, the sale shall be suspended and the animal shall be delivered to him upon payment of the maintenance and transportation expenses.

"A record of any such sale shall be made in the municipality in which the sale took place and a certificate shall be issued as in ordinary sales, except that the entry and certificate shall show that the sale was made by the

municipality in conformity with this section, and the signature of the owner shall be omitted from the entry and certificate"

[5] Section 5[m], Rule 131 of the Rules of Court.

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