

FRANCISCO PASCUA, PLAINTIFF AND APPELLANT, VS. CRISPULO SIDECO, DEFENDANT AND APPELLEE.

G.R. No. 7685. January 02, 1913

Ponente: TRENT, J.

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TRENT, J.:

This is an appeal from the judgment of the Court of First Instance of the Province of Nueva Ecija, absolving the defendant with costs.

The facts are these: Crispulo Sideco, on September 20, 1907, instituted an action of replevin to recover certain animals that were then in the possession of Francisco Pascua. On the same day Sideco filed a bond (Sideco did not sign this bond) with two sureties and received possession of the animals. Pascua, in his answer, claimed to be the owner of the animals and asked that the court so declare, and direct their return with costs of the cause in his favor. He made no claim for damages for the wrongful detention of the property. Upon trial the court found the animals to be the property of Sideco and rendered judgment accordingly. Pascua appealed and this court reversed the judgment, directing that the carabaos be returned to Pascua, the true owner. Subsequently thereto, on May 6, 1910, Pascua commenced the present action against Sideco alone for damages for the wrongful taking and retention of the animals. The lower court held that a separate action could not be maintained under the law, and directed the dismissal of the cause with costs. The plaintiff appealed.

Section 272 of the Code of Civil Procedure, as amended by section 17 of Act No. 1627, reads:

"After a trial of the issues the court shall find in whom is the right of possession and the value of the property, and shall render judgment in the alternative for the delivery thereof to the party entitled to the same or for the value, in case delivery cannot be made, and also for such damages as either party may prove, and for costs."

As appears from the above section, when a trial is had, it is intended that all matters growing out of the controversy are to be finally determined in one and the same suit. The object is to prevent a multiplicity of actions and to prevent the possibility of one part of the cause being tried before one judge and the other part before a different judge, which would unnecessarily harass the parties and produce needless litigation and accumulate costs. The damages are incident to the action and spring immediately out of it, and ought and must be determined in the replevin suit. Such damages cannot, under the law, be made the basis of an independent action. But it is insisted that as the former suit was appealed to this Supreme Court, it would have been impossible for the trial court to have assessed the damages for the time the case was pending on appeal until the rendition of final judgment. Admitting this to be true, it does not follow that a separate action can be maintained. Had the plaintiff as defendant in the former suit claimed such damages, proof of the amount of the same up to the time of the rendition of the judgment in the lower court should have been presented, and if this evidence could not have formed the basis for fixing the amount of the damages subsequent thereto, the defendant in that action; immediately after the return of the animals in accordance with the judgment of the Supreme Court could have applied to the Court of First Instance to fix these damages as an incident to that suit. By so doing he would have

been within the provisions of the above-quoted section and would thereby have complied with the principle therein set forth, the object of which is to avoid a multiplicity of suits.

For the foregoing reasons, the judgment appealed from is affirmed, with costs against the appellant.

Arellano, C. J., Torres, Carson, and Moreland, JJ., concur.

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