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Boley Vs. Griswold

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Court : US Supreme Court

Decided On : 1874

Appeal No. : 87 U.S. 486

Appellant : Boley

Respondent : Griswold

Judgement :

Boley v. Griswold - 87 U.S. 486 (1874)
U.S. Supreme Court Boley v. Griswold, 87 U.S. 20 Wall. 486 486 (1874)

Boley v. Griswold

87 U.S. (20 Wall.) 486

ERROR TO THE SUPREME COURT

OF THE TERRITORY OF MONTANA

SYLLABUS

In an action in the courts of the Territory of Montana for the recovery of the possession of personal property -- the code of civil procedure in which territory provides that the judgment in such an action may be for the possession of the

property or the value thereof in case a delivery cannot be had, and damages for the detention -- while it is true that there can be no judgment for the value if there can be a delivery of the property, yet it is not true that a judgment is necessarily erroneous if the alternative is not expressed upon its face. The court must be satisfied that the delivery cannot be made before it can adjudge absolutely the payment of money. But if so satisfied, it may so adjudge. A special finding that a delivery cannot be made is not necessary. An absolute judgment for the money is equivalent to such a finding.

The Civil Practice Act of the Territory of Montana thus enacts:

"In an action to recover possession of personal property, judgment for the plaintiff may be for the possession or the value thereof, in case a delivery cannot be had, and damages for the detention of them."

This act being in force, Griswold sued Boley in one of the district courts of Montana for the recovery of the possession of certain cattle. The jury found as follows:

"For the return of the cattle to the plaintiff, and in case a return of the same could not be had, $3,000, the value thereof, and $800 damages for the detention."

On this verdict, the court entered a judgment that plaintiff recover from defendant the sum of $3,800, with interest &c.;

No alternative judgment, as provided by the Practice Act for the possession or return of the property, was rendered upon the verdict by the district court.

The defendant took the case to the supreme court, which affirmed the judgment of the district court. Thereupon he brought the case here.

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THE CHIEF JUSTICE delivered the opinion of the Court.

It is true that under the Civil Practice Act of Montana, there can be no judgment for the value if there can be a delivery of the property, but it is not true that a judgment is necessarily erroneous if the alternative is not expressed upon its face. The court must be satisfied that the delivery cannot be made before it can adjudge absolutely the payment of money. But if so satisfied, it may so adjudge. A special finding to that effect is not necessary. An absolute judgment for the money is equivalent to such a finding.

In one part of this record, it appears that the verdict was for the return of the property or, in case that could not be made, for $3,000, the value, and $800 damages for the detention. The judgment was for the money, and the presumption

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is, in the absence of anything in the record to the contrary, that before it was rendered, the court had become judicially satisfied that the property could not be returned. In a court of error, every presumption is in favor of the validity of the judgment brought under consideration. Error must appear affirmatively before there can be a reversal.

Judgment affirmed.

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