

111. — If the subject of the prestation is property which may be returned, and the person who received it was in bad faith, such person is liable for any damage caused to it.

[ILLUSTRATION (Sections 109, 110 & 111). — A delivers to B an elephant, market value 2000 bant, believing that such prestation was due. In fact, the prestation was not due, A is entitled to restitution from B.]

[If the elephant is still in B's possession, B must return it to A; but if the elephant is not in good condition, a distinction is to be made:]

1) If B was in good faith, that is to say if he believed in good faith that the prestation was due to him, he is only bound to return the elephant in such condition as it is.

2) If B was in bad faith, that is to say if he knew that the prestation was not due to him, he is liable for damage and he must pay compensation to A for such damage.]

112. — If the subject of the prestation is such as cannot be returned, or if restitution is otherwise impossible, and the person who received the prestation was in good faith, such person is bound to return such part of his enrichment as still exists at the time when return is demanded.

See illustration under Section 113.

113. — If the subject of the prestation is such as cannot be returned, or if restitution is otherwise impossible, and the person who received the prestation was in bad faith, such person is bound to pay the highest value

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113.—If the subject of the prestation is such as cannot be returned, or if restitution is otherwise impossible, and the person who received the prestation was in bad faith, such person is bound to pay the highest value

which the subject of the prestation may have reached between the time when prestation was made and the date of final judgment.

ILLUSTRATION (Sections 112 & 113). — If B no longer has the elephant (dealt with in illustration for Section ~~109~~ [111]), restitution is impossible and compensation is due under Sections 112 and 113, according to the following distinctions :

I) If B was in good faith :

B is bound to restore such part of his enrichment as still exists at the time when compensation is demanded, that is to say:

a) If the elephant has died or was lost before such time, B's enrichment has totally disappeared and B has nothing to restore.

b) If B has sold the elephant to a third person, he must deliver to A the price which he received, whether such price be 2000 baht, or more or less, because the price represents B's enrichment.

c) If B has exchanged the elephant, say for twenty buffaloes, he must deliver to A those 20 buffaloes ; but if five of those buffaloes have died before the compensation was demanded, B is only bound to deliver that part of the enrichment as still exists at that time, that is to say the remaining 15 buffaloes,

II. — If B was in bad faith :

B is bound to restore the highest value of the elephant, whether the elephant has died, or whether B has sold, lost or exchanged it. Therefore :

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