

ILLUSTRATION. — *A sells his house to B in April 2455 but B does not occupy it. In May 2455 A sells the same house to C and delivers it to C on the 15th. of June 2455, B comes to C, produces his deed of sale and asks for delivery of the house.*

Three cases may happen:

a) C refuses to deliver the house, B enters a case against C, A does not join in the action. B gets a judgment in his favour. The judgment becomes final on the 15th. of January 2455. The right of C to claim compensation for eviction from A is extinguished by prescription on the 15th. of April 2456.

b) On the case being entered against him C comes to an understanding with B. C agrees to deliver the house to B on payment of a compensation. The compromise is made on the 1st. of July 2455. The right of C to claim compensation for eviction from A is extinguished by prescription on the 1st. of October 2455.

c) On B coming and producing his deed of sale, C finds that it is useless to deny B's claim and at once delivers the house to B. The right of C to claim compensation for eviction from A is extinguished by prescription on the 15th. of September 2455.

422. — The seller is not liable for eviction in the following cases :

1) If no action was entered and the seller proves that the rights of the buyer were lost on account of the fault of the buyer, or

2) If the buyer did not summon the seller to appear in the action, and the seller proves that he would have succeeded in the action if summoned to appear, or

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3) If the seller appeared in the action, but the claim of the buyer was dismissed on account of the fault of the buyer.

In any case the seller is liable whenever he is summoned to appear in the action and refuses to take the part of the buyer as joint defendant or joint plaintiff.

ILLUSTRATION. — *A buys from B a house. C claims the house by virtue of a titled deed. It appears that originally C was the lawful owner of the house and B had no right over it : but C abandoned the house and B became owner by way of usucapion. Three cases may happen :*

I. — A restores the house to C before any action for ejectment be entered by C and claims compensation from B. B proves that C's rights were really extinguished because B has become owner and that A lost his rights by omitting to make such objection to C. B is not liable to A.

II. — Centers an action against A. A does not summon B to appear in the action and omits to argue that B's rights are acquired by usucapion. Judgment is given against A, who is ejected from the house. A claims compensation from B. B proves that C's rights were really extinguished and that A omitted to object it to C. B is not liable to A.

III. — C enters an action against A. A summons B to appear in the action as joint defendant. A and B agree that A shall give evidence to the Court that B's right is acquired by usucapion. A, by his own negligence, omits to give such evidence. Judgment is given in favour of C and A is ejected from the house. A claims compensation from B. B proves the facts stated above. B is not liable to A.

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