

- 3° *The watch is attached and sold by auction, against A's will, by order of the Court, for the benefit of his creditors. A's possessory rights are extinguished.*

*See also illustrations under Section 113.*

104. — The possessor of a thing *in genere* which is not identified is the owner of it.

This does not dispense the possessor from fulfilling any personal obligation (to deliver such thing or its equivalent, or to make compensation) which may have not yet been extinguished by prescription or otherwise.

*Illustrations : — I. — A and B are the possessors of two cocoanut plantations. When the time for gathering the nuts has come B's workmen inadvertently encroach on the limits and gather 1,000 nuts from A's trees. B thus becomes the possessor of 1,000 nuts which belonged to A. But as it is impossible to identify those nuts B shall be deemed the owner of all the nuts gathered by his workmen; he shall not be dispensed thereby of the obligation to deliver to A 1,000 nuts or to pay compensation for them. But this is only a personal obligation and A has no action for recovery of the nuts.*

*II. — Under Section 95 S 3 the person who holds a property in genere which is not identified or exercises power or control over it is deemed to be the direct possessor of such property. By the effect of the present section he is also deemed the owner of it. For instance, A has delivered to B, a rice miller, 100 piculs of paddy to be milled on A's account. B acts as a hirer of work. If the property could be identified B would be only a representative of A ; but as the property*

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